

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF TENNESSEE
3 AT KNOXVILLE, TENNESSEE

4)
5 UNITED STATES OF AMERICA,)
6))
7 Government,))
8 vs.) Case No. 3:20-cr-21
9))
10 ANMING HU,))
11))
12 Defendant.))
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9 TRIAL PROCEEDINGS
10 BEFORE THE HONORABLE THOMAS A. VARLAN

11 June 10, 2021
12 VOLUME IV of VII

13 APPEARANCES:

14 ON BEHALF OF THE GOVERNMENT:

15 CASEY ARROWOOD, ESQ.
16 U.S. DEPARTMENT OF JUSTICE
17 OFFICE OF U.S. ATTORNEY
18 800 Market Street
19 Suite 211
20 Knoxville, TN 37902

21 MATTHEW J. MC KENZIE, ESQ.
22 U.S. DEPARTMENT OF JUSTICE
23 NATIONAL SECURITY DIVISION
24 950 Pennsylvania Avenue, NW
25 Washington, DC 20530

21 REPORTED BY:

22 Teresa S. Grandchamp, RMR, CRR
23 P.O. Box 1362
24 Knoxville, Tennessee 37901
25 (865) 244-0454

1 || APPEARANCES: (Continued)

ON BEHALF OF THE DEFENDANT:

A. PHILLIP LOMONACO, ESQ.
LAW OFFICES OF A. PHILLIP LOMONACO
800 South Gay Street, Suite 1950
Knoxville, TN 37929

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* * * * *

1 THE COURTROOM DEPUTY: All rise.

2 This honorable court is again in session.

3 THE COURT: All right. Good morning, everyone.

4 It looks like the government's ready with its next
5 witness and the jury is all lined up; so we'll bring the
6 jury in and proceed forward.

7 (Whereupon the following report of

8 proceedings was had within the presence
9 and hearing of the jury:)

09:01AM 10 THE COURT: All right. Thank you. Everyone
11 may be seated.

12 And swear in the next -- the first witness this
13 morning.

14 THE COURTROOM DEPUTY: Yes, sir.

15 (The witness was thereupon duly sworn.)

16 THE COURTROOM DEPUTY: Have a seat, please.
17 Scoot forward.

18 Will you state and spell your name for the
19 record.

09:01AM 20 THE WITNESS: Fiona Yiu.

21 THE COURTROOM DEPUTY: Thank you.

22

23

24

25

DIRECT EXAMINATION - FIONA YIU

1 FIONA YIU,

2 having been first duly sworn, was examined and testified
3 as follows:

4 DIRECT EXAMINATION

5 BY MR. ARROWOOD:

6 Q. Good morning.

7 A. Good morning.

8 Q. Would you please spell your name for the court
9 reporter.

09:02AM 10 A. First name Fiona, F-i-o-n-a. Last name Yiu,
11 Y-i-u.

12 Q. Thank you.

13 Would you please tell the jury where you're
14 currently employed.

15 A. The Federal Bureau of Investigation.

16 Q. And what do you do with the FBI?

17 A. I am a language specialist for the FBI.

18 Q. How long have you been a language specialist
19 for the FBI?

09:02AM 20 A. Five years.

21 Q. Let's go back in time just a little bit.

22 A. Okay.

23 Q. Where were you born?

24 A. Guangzhou, China.

25 Q. And how long did you live in China?

DIRECT EXAMINATION - FIONA YIU

1 A. 28 years.

2 Q. After 28 years, is that when you moved to the
3 United States?

4 A. Correct.

5 Q. If you would please describe for the jury your
6 educational background.

7 A. I receive a bachelor's degree in China. Then I
8 moved to the United States. Then I pursue my Ph.D. in
9 chemistry. I obtained my Ph.D. in chemistry from North
09:03AM 10 Carolina State University in 2010.

11 After that, I finished a two-year term
12 postdoctoral research fellowship at Penn State. After
13 that, I finished a government-sponsored fellowship at
14 Georgetown. Then I move on to become a contract
15 language specialist for the FBI. In the meantime,
16 I'm -- I am -- part-time, I'm adjunct professor at
17 various community colleges.

18 Q. Let me stop you right there.

19 Have you ever worked as a chemistry instructor?

09:04AM 20 A. Yes, I taught at Community -- the Community
21 College of Allegheny County when I was living in
22 Pittsburgh, Pennsylvania.

23 Now I'm living in Jacksonville, Florida. I
24 teach at Florida State College at Jacksonville.

25 Q. Are you an adjunct professor at Florida State

DIRECT EXAMINATION - FIONA YIU

1 College?

2 A. Correct.

3 Q. So is that essentially a part-time professor
4 position?

5 A. Correct.

6 Q. And moving on to your foreign language
7 background. Are you a native Chinese speaker?

8 A. Yes.

9 Q. Have you ever taken a foreign language test --

09:04AM 10 A. Yes.

11 Q. -- administered by the U.S. government?

12 A. Yes, I have.

13 Q. Will you please describe for the jury what that
14 test is.

15 A. To become a language specialist, one has to
16 pass a battery of multiple tests administered by the
17 FBI. I am one of those. I -- before I became a
18 language specialist, I took reading, listening, speaking
19 test in -- for both English and Chinese administered by
09:05AM 20 the FBI, as well as a translation test administered by
21 the FBI.

22 Q. So when did you become a full-time language
23 specialist with the FBI?

24 A. July 2016.

25 Q. And prior to that, did you work for the FBI?

DIRECT EXAMINATION - FIONA YIU

1 A. Yes, I did.

2 Q. And will you please tell the jury: In what
3 capacity did you work for the FBI prior to being a
4 full-time language specialist?

5 A. I was a contract -- in FBI jargon, contract
6 linguist, or you can call contract language specialist.
7 The relationship between the FBI and myself was contract
8 basis, not employment.

9 Q. Okay. As a full-time language specialist for
09:06AM 10 the FBI, would you please describe for the jury --
11 generally speaking, what are the duties of your job?

12 A. We language specialists provide translation and
13 interpretation for any leads arising from case
14 investigation. I myself in particular, I perform
15 translation for the most part. Whenever there are
16 materials that need to be translated for case
17 investigation and if the source material is in Chinese,
18 I perform -- I review the material. I sometimes -- I'll
19 determine whether these materials are pertinent for case
09:07AM 20 investigation.

21 Sometimes I will -- depending on the needs --
22 depending on the needs for case investigation, if
23 translation is needed, then I perform translation.

24 Q. Earlier you mentioned, I believe,
25 interpretation; is that correct?

DIRECT EXAMINATION - FIONA YIU

1 A. That's correct.

2 Q. What's the difference between translation and
3 interpretation?

4 A. Translation is writing. It's to provide a
5 written -- a written rendition of the source material
6 into a separate language. Interpretation is oral. It
7 is to render the source of material in a different
8 language verbally.

9 Q. So do you do interpretations for the FBI?

09:07AM 10 A. Yes, I do.

11 Q. And you do translations as well?

12 A. Yes.

13 Q. Do you specialize in one or the other?

14 A. There is no official specialization, but in
15 particular, in my case, I perform translation more.

16 Q. I believe earlier you mentioned that you
17 translate from Chinese to English; do you remember that?

18 A. Correct, yes.

09:08AM 19 Q. Do you also translate material from English
20 into Chinese?

21 A. Yes, I do.

22 Q. Based on your work as a language specialist, do
23 you do more translations from Chinese into English or
24 more translations from English into Chinese?

25 A. I do the former more, from English to

DIRECT EXAMINATION - FIONA YIU

1 Chinese -- from Chinese to English more.

2 Q. So during the course of your duties as a
3 language specialist for the FBI, did you become involved
4 in this case?

5 A. Yes, I did.

6 Q. And how did you become involved in this case?

7 A. FBI language service headquarters sent out an
8 email letting us know there are several translations
9 that would go to court for trial. They ask us if
09:09AM 10 someone -- if one of us could review and finalize these
11 translations and would be willing to testify in court.
12 I volunteered myself for this task.

13 Q. If you would please describe for the jury the
14 process for translating material in this case.

15 A. The case agent for his or her investigation
16 purposes decides that these documents, certain
17 documents, need to be translated from Chinese to
18 English. Then the case agent will submit a request to
19 the relevant department. Then these -- this source
09:09AM 20 material will be -- the translation of these source
21 documents will be assigned to whoever -- whoever is
22 certified to take on the task. These source documents
23 would be first translated by one or a number of language
24 specialists. The translations, once they're completed,
25 would be sent back to headquarters.

DIRECT EXAMINATION - FIONA YIU

1 Then after I had agreed to perform the review
2 and finalization, those translations were sent to me,
3 along with the source documents. Then I performed a
4 review of the finalization.

5 Q. What does it mean to review a translation?

6 A. Basically I perform quality control. I make
7 sure the translation is a faithful representation of the
8 source document rendered in English, in terms of
9 grammar, in terms of registers, syntax, etcetera.

09:10AM 10 Q. If you saw any mistakes in the first
11 translation when you're reviewing it, would you make
12 edits?

13 A. Yes, I would, and I did.

14 Q. What does it mean to finalize a translation?

15 A. To assign a final form of the document that
16 will be used in court.

17 Q. And then after the translations are reviewed
18 and finalized, are they provided back to the case agent?

19 A. Yes, through headquarters.

09:11AM 20 Q. Now, in this particular case, after the
21 documents were provided back to the case agent, did you
22 perform any additional edits to the translations in this
23 case?

24 A. Yes, I did.

25 Q. All right. Now I'd like to show you some of

DIRECT EXAMINATION - FIONA YIU

1 the material in the case.

2 A. Okay.

3 MR. ARROWOOD: If you would please show the
4 witness Government's Exhibit 3-T on the left-hand side
5 of the screen, and then on the right, please put
6 Government's Exhibit 11-I.

7 BY MR. ARROWOOD:

8 Q. Please take a look at the document on the
9 left-hand side of the screen. Do you recognize that
09:12AM 10 document?

11 A. Yes, I do.

12 Q. Did you review and finalize a translation of
13 that document?

14 A. Yes, I did.

15 Q. Will you please take a look at the documents on
16 the right-hand side of the screen. What is that
17 document?

18 A. It's the translation of document on the left.

19 Q. Is this the version that you reviewed and
09:12AM 20 finalized?

21 A. Yes.

22 Q. Is the document on the right-hand side a fair
23 and accurate translation of the document on the
24 left-hand side?

25 A. Yes.

DIRECT EXAMINATION - FIONA YIU

1 MR. ARROWOOD: Your Honor, at this time, the
2 government moves to fully admit Government's Exhibit 3-T
3 and 11-I.

4 THE COURT: So admitted.

5 (Government's Exhibits 3-T and 11-I were
6 received into evidence.)

7 BY MR. ARROWOOD:

8 Q. All right. Now I'd like to show you
9 Government's Exhibit 6-D, as in dog, on the left-hand
09:12AM 10 side and Government's Exhibit 11-O on the right-hand
11 side. Will you please take a look at the document on
12 the left. Do you recognize that document?

13 A. Yes.

14 Q. Did you review and finalize a translation of
15 that document?

16 A. Yes.

17 Q. All right. Now take a look at the document on
18 the right. What is that document?

19 A. It's the translation of the document on the
09:13AM 20 left.

21 Q. Is this the version that you reviewed and
22 finalized?

23 A. Yes.

24 Q. Is the document on the right a fair and
25 accurate translation of the document on the left?

DIRECT EXAMINATION - FIONA YIU

1 A. Yes.

2 MR. ARROWOOD: Your Honor, at this time, the
3 government moves to fully admit Government's Exhibit 6-D
4 and 11-O.

5 THE COURT: So admitted.

6 (Government's Exhibits 6-D and 11-O were
7 received into evidence.)

8 BY MR. ARROWOOD:

9 Q. All right. Now I'd like to show you
09:13AM 10 Government's Exhibit 6-E on the left-hand side and
11 Government's Exhibit 11-P on the right-hand side.
12 Again, please take a look at the document on the left.
13 Do you recognize that?

14 A. Yes.

15 Q. Did you review and finalize a translation of
16 that document?

17 A. Yes.

18 Q. Please take a look at the document on the
19 right. What is that document?

09:14AM 20 A. It's the translation of the document on the
21 left.

22 Q. Is this the version that you reviewed and
23 finalized?

24 A. Yes.

25 Q. Is the document on the right a fair and

DIRECT EXAMINATION - FIONA YIU

1 accurate translation of the document on the left?

2 A. Yes.

3 MR. ARROWOOD: Your Honor, at this time, we
4 move to admit Government's Exhibit 6-E and 11-P.

5 THE COURT: So admitted.

6 (Government's Exhibits 6-E and 11-P were
7 received into evidence.)

8 BY MR. ARROWOOD:

9 Q. Now I'd like to show you Government's
09:14AM 10 Exhibit 6-F on the left-hand side of the screen and
11 Government's Exhibit 11-N on the right-hand side.
12 Please take a look at the document on the left. Do you
13 recognize that document?

14 A. Yes.

15 Q. Did you review and finalize a translation of
16 that document?

17 A. Yes.

18 Q. All right. Now please take a look at the
19 document on the right. What is that document?

09:15AM 20 A. It's the translation of the document on the
21 left.

22 Q. Is this the version that you reviewed and
23 finalized?

24 A. Yes.

25 Q. Is the document on the right a fair and

DIRECT EXAMINATION - FIONA YIU

1 accurate translation of the document on the left?

2 A. Yes.

3 MR. ARROWOOD: Your Honor, at this time, move
4 to admit Government's Exhibit 6-G -- I'm sorry -- 6-F
5 and 11-N.

6 THE COURT: So admitted.

7 (Government's Exhibit 6-F and 11-N were
8 received into evidence.)

9 BY MR. ARROWOOD:

09:15AM 10 Q. Okay. I'd like to show you Government's
11 Exhibit 6-G, as in golf, on the left, and Government's
12 Exhibit 11-Q on the right. Please take a look at the
13 document on the left. Did you review and finalize a
14 translation of that document?

15 A. Yes.

16 Q. All right. Now please take a look at the
17 document on the right. What is that document?

18 A. That's the translation of the document on the
19 left.

09:16AM 20 Q. Is this -- is the document on the right the
21 version that you reviewed and finalized?

22 A. Yes.

23 Q. Is the document on the right a fair and
24 accurate translation of the document on the left?

25 A. Yes.

DIRECT EXAMINATION - FIONA YIU

1 MR. ARROWOOD: Your Honor, I move to admit
2 Government's Exhibit 6-G and 11-Q.

3 THE COURT: So admitted.

4 (Government's Exhibits 6-G and 11-Q were
5 received into evidence.)

6 BY MR. ARROWOOD:

7 Q. Now I'd like to show you Government's
8 Exhibit 6-H on the left-hand side and Government's
9 Exhibit 11-J on the right. Please take a look at the
09:16AM 10 left-hand side of your screen. Do you recognize that
11 document?

12 A. Yes.

13 Q. Did you review and finalize a translation of
14 that document?

15 A. Yes.

16 Q. Now please take a look at a document on the
17 right. What is that?

18 A. It's the translation of the document on the
19 left.

09:16AM 20 Q. Is this the version that you reviewed and
21 finalized?

22 A. Yes.

23 Q. Is the document on the right a fair and
24 accurate translation of the document on the left?

25 A. Yes.

DIRECT EXAMINATION - FIONA YIU

1 MR. ARROWOOD: Your Honor, I move to admit
2 Government's Exhibit 6-H and 11-J.

3 THE COURT: So admitted.

4 (Government's Exhibits 6-H and 11-J were
5 received into evidence.)

6 BY MR. ARROWOOD:

7 Q. All right. I'd like to show you Government's
8 Exhibit 6-I on the left-hand side and 11-K on the right.
9 Do you recognize the document on the left?

09:17AM 10 A. Yes.

11 Q. Did you review and finalize a translation of
12 that document?

13 A. Yes.

14 Q. All right. Please take a look at the document
15 on the right. What is that document?

16 A. It's the translation of the document on the
17 left.

18 Q. Is this the version you reviewed and finalized?

19 A. Yes.

09:17AM 20 Q. Is the document on the right a fair and
21 accurate translation of the document on the left?

22 A. Yes.

23 MR. ARROWOOD: Your Honor, move to admit
24 Government's Exhibit 6-I and 11-K.

25 THE COURT: So admitted.

DIRECT EXAMINATION - FIONA YIU

1 (Government's Exhibits 6-I and 11-K were
2 received into evidence.)

3 THE COURT: All right.

4 BY MR. ARROWOOD:

5 Q. Now we'll do 7-K on the left and 11-L on the
6 right.

7 All right. Please take a look at the document
8 on the left. Do you recognize that document?

9 A. Yes.

09:18AM 10 Q. Did you review and finalize a translation of
11 that document?

12 A. Yes.

13 Q. All right. Please take a look at the document
14 on the right. What is that?

15 A. It's the translation of the document on the
16 left.

17 Q. Is this the version you reviewed and finalized?

18 A. Yes.

09:18AM 19 Q. Is the document on the right a fair and
20 accurate translation of the document on the left?

21 A. Yes.

22 MR. ARROWOOD: Move to admit 7-K and 11-L, Your
23 Honor.

24 THE COURT: So admitted.

25

DIRECT EXAMINATION - FIONA YIU

1 (Government's Exhibits 7-K and 11-L were
2 received into evidence.)

3 BY MR. ARROWOOD:

4 Q. Now 7-L on the left, please, and 11-M, as in
5 Michael, on the right.

6 Please take a look at the document on the left.
7 Do you recognize that document?

8 A. Yes.

09:18AM 9 Q. Did you review and finalize a translation of

10 that document?

11 A. Yes.

12 Q. All right. Now please take a look at the
13 document on the right. What is that?

14 A. It's the translation of the document on the
15 left.

16 Q. Is this the version that you reviewed and
17 finalized?

18 A. Yes.

09:19AM 19 Q. Is the document on the right a fair and

20 accurate translation of the document on the left?

21 A. Yes.

22 MR. ARROWOOD: Your Honor, move to admit
23 Government's Exhibit 7-L and 11-M.

24 THE COURT: F?

25 MR. ARROWOOD: 7-L and 11-M.

DIRECT EXAMINATION - FIONA YIU

1 THE COURT: M. Thank you. Admitted.

2 (Government's Exhibits 7-L and 11-M were
3 received into evidence.)

4 BY MR. ARROWOOD:

5 Q. We've looked at several different documents.
6 I'd like to transition from documents into other types
7 of files.

8 In your work on this particular case, did you
9 translate WeChat communications?

09:19AM 10 A. Yes.

11 Q. What is WeChat?

12 A. It's a communication app, application.

13 Q. Can you send text messages over WeChat?

14 A. Yeah.

15 Q. What else can you send, if anything, through
16 WeChat?

17 A. Voice message, text files, photos, videos. You
18 can make audio or video phone calls.

19 Q. And how are you familiar with WeChat?

09:20AM 20 A. Very familiar. I'm a user.

21 Q. Now I'd like to show you Government's
22 Exhibit 5-D on the left-hand side and Government's
23 Exhibit 11-D on the right-hand side.

24 MR. ARROWOOD: Would you please play
25 Government's Exhibit 5-D.

DIRECT EXAMINATION - FIONA YIU

1 (Video file played in open court.)

2 BY MR. ARROWOOD:

3 Q. Do you recognize this file on the left-hand
4 side?

5 A. Yes.

6 Q. Did you review and finalize a translation of
7 the content of that file?

8 A. Yes.

9 Q. Please take a look at the document on the
09:21AM 10 right-hand side. What is that?

11 A. It's the translation of the contents shown on
12 the left.

13 Q. Is this the version that you reviewed and
14 finalized?

15 A. Yes.

16 Q. Is the document on the right a fair and
17 accurate translation of the content of the file on the
18 left?

19 A. Yes.

09:21AM 20 MR. ARROWOOD: All right. At this time, we
21 move to admit Government's Exhibit 5-D and 11-D.

22 THE COURT: So admitted.

23 (Government's Exhibit 5-D and 11-D were
24 received into evidence.)

25

DIRECT EXAMINATION - FIONA YIU

1 BY MR. ARROWOOD:

2 Q. Along those same lines, I'd like to show you
3 Government's Exhibit 5-E on the left-hand side and 11-F
4 on the right-hand side.

5 MR. ARROWOOD: Please play 5-E.

6 (Video file played in open court.)

7 BY MR. ARROWOOD:

8 Q. Do you recognize the file on the left?

9 A. Yes.

09:21AM 10 Q. Did you review and finalize a translation of
11 the content of the file on the left?

12 A. Yes.

13 Q. Will you please take a look at the document on
14 the right. What is that?

15 A. It's a translation of the contents on the left.

16 Q. Is it the version that you reviewed and
17 finalized?

18 A. Yes.

19 Q. Is the document on the right a fair and
09:22AM 20 accurate translation of the content of the file on the
21 left?

22 A. Yes.

23 MR. ARROWOOD: Your Honor, at this time, we
24 move to admit Government's Exhibit 5-E and 11-F.

25 THE COURT: So admitted.

DIRECT EXAMINATION - FIONA YIU

1 (Government's Exhibits 5-E and 11-F were
2 received into evidence.)

3 (Government's Exhibit 5-F was marked for
4 identification.)

5 (Government's Exhibit 11-H was marked for
6 identification.)

7 BY MR. ARROWOOD:

8 Q. I'd like to show you Government's Exhibit 5-F
9 on the left-hand side and Government's Exhibit 11-H on
09:22AM 10 the right-hand side.

11 MR. ARROWOOD: Please play 5-F.

12 (Video file played in open court.)

13 BY MR. ARROWOOD:

14 Q. Do you recognize the file on the left-hand
15 side?

16 A. Yes.

17 Q. Did you review and finalize a translation of a
18 portion of the content of the file on the left?

19 A. Yes.

09:23AM 20 Q. Please take a look at the document on the
21 right. What is that?

22 A. It is a translation of a portion of the
23 contents on the left.

24 Q. Is that the version that you reviewed and
25 finalized?

DIRECT EXAMINATION - FIONA YIU

1 A. Yes.

2 Q. Is the document on the right a fair and
3 accurate translation of those communications contained
4 in the file on the left?

5 A. Yes.

6 MR. ARROWOOD: Your Honor, I move to admit
7 conditionally Government's Exhibit 5-F and 11-H.

8 THE COURT: So admitted.

9 (Government's Exhibits 5-F and 11-H were
10 conditionally received into evidence.)

11 (Government's Exhibit 5-G was marked for
12 identification.)

13 (Government's Exhibit 11-E was marked for
14 identification.)

15 BY MR. ARROWOOD:

16 Q. All right. Now I'd like to show you
17 Government's Exhibit 5-G on the left and Government's
18 Exhibit 11-E on the right.

19 MR. ARROWOOD: Can you please play 5-G.

09:24AM 20 (Video file played in open court.)

21 BY MR. ARROWOOD:

22 Q. Do you recognize the file on the left-hand
23 side?

24 A. Yes.

25 Q. Did you review and finalize a translation of

DIRECT EXAMINATION - FIONA YIU

1 the content of that file?

2 A. Yes.

3 Q. Could you please take a look at the document on
4 the right. What is that?

5 A. It's a translation of the contents shown on the
6 left.

7 Q. Is the document on the right the version that
8 you reviewed and finalized?

9 A. Yes.

09:24AM 10 Q. Is the document on the right a fair and
11 accurate translation of the content of the file on the
12 left?

13 A. Yes.

14 MR. ARROWOOD: Your Honor, we move to
15 conditionally admit Government's Exhibit 5-G and 11-E.

16 THE COURT: So admitted.

17 (Government's Exhibits 5-G and 11-E were
18 conditionally received into evidence.)

19 BY MR. ARROWOOD:

09:24AM 20 Q. Okay. And moving on to Government's
21 Exhibit 5-H.

22 MR. ARROWOOD: Please put that on the left-hand
23 side and Government's Exhibit 11-G on the right-hand
24 side. Please play 5H.

25 (Video file played in open court.)

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1 BY MR. ARROWOOD:

2 Q. Do you recognize the file on the left-hand
3 side?

4 A. Yes.

5 Q. Did you review and finalize a translation of
6 the content of the file on the left?

7 A. Yes.

8 Q. Would you please take a look at the document on
9 the right. What is that?

09:25AM 10 A. It's a translation of the contents on the left.

11 Q. Is it the version that you reviewed and
12 finalized?

13 A. Yes.

14 Q. Is the translation on the right-hand side a
15 fair and accurate translation of the content of the file
16 on the left?

17 A. Yes.

18 MR. ARROWOOD: Your Honor, we move to admit
19 Government's Exhibit 5-H and 11-G.

09:26AM 20 THE COURT: So admitted.

21 (Government's Exhibits 5-H and 11-G were
22 received into evidence.)

23 BY MR. ARROWOOD:

24 Q. During your work on this particular case, did
25 you also translate audio files?

DIRECT EXAMINATION - FIONA YIU

1 A. Yes.

2 Q. Do you recall how many you translated?

3 A. Three.

4 (Government's Exhibit 10-B was marked for
5 identification.)

6 (Government's Exhibit 11-A was marked for
7 identification.)

8 MR. ARROWOOD: Okay. What I'd like to do is:

9 On the left-hand side of the screen bring up

09:26AM 10 Government's Exhibit 10-B and then on the right-hand
11 side, please bring up Government's Exhibit 11-A.

12 BY MR. ARROWOOD:

13 Q. Do you see on your screen the file on the
14 left-hand side?

15 A. Yes.

16 Q. I want to direct your attention to the file
17 name. Do you recognize that file name?

18 A. Yes.

19 Q. Have you listened to the audio recording
09:27AM 20 associated with that file name?

21 A. Yes.

22 Q. Did you review and finalize a translation of
23 the contents of the audio call with that file name?

24 A. Yes.

25 Q. I'd like to direct your attention to the

DIRECT EXAMINATION - FIONA YIU

1 document on the right-hand side. What is that document?

2 A. It's a translation of the contents of the audio
3 file on the left.

4 Q. Is this the version that you reviewed and
5 finalized?

6 A. Yes.

7 MR. ARROWOOD: Your Honor, at this time, the
8 government moves to conditionally admit Government's
9 Exhibit 10-B and 11-A.

09:27AM 10 THE COURT: So admitted.

11 (Government's Exhibits 10-B and 11-A were
12 conditionally received into evidence.)

13 MR. ARROWOOD: Your Honor, at this time, may we
14 have permission to play Government's Exhibit 10-B?

15 THE COURT: Yes.

16 MR. ARROWOOD: And then may we also allow the
17 witness to indicate when to advance the page on the
18 translation in Government's Exhibit 11-A corresponding
19 to the contents of the call on the left.

09:28AM 20 THE COURT: Yes.

21 (Audio file played in open court.)

22 (Government's Exhibit 10-C was marked for
23 identification.)

24 (Government's Exhibit 11-B was marked for
25 identification.)

DIRECT EXAMINATION - FIONA YIU

1 BY MR. ARROWOOD:

2 Q. Now I'd like to show you Government's
3 Exhibit 10-C on the left-hand side of the screen and
4 Government's Exhibit 11-B on the right-hand side.

5 I'd like to direct your attention to the file
6 name associated with the document on the left. Did you
7 listen to the contents of the audio file with that name?

8 A. Yes.

09:31AM 9 Q. Did you review and finalize a translation of
10 the contents of the audio file that's on the left-hand
11 side of the screen?

12 A. Yes.

13 Q. I'd like to direct your attention to a document
14 on the right-hand side.

15 MR. ARROWOOD: Please scroll down to page 2.

16 BY MR. ARROWOOD:

17 Q. Do you recognize this document?

18 A. Yes.

19 Q. What is it?

09:31AM 20 A. It is a translation of the contents of the
21 document -- of the file on the left.

22 Q. Is this the version that you reviewed and
23 finalized?

24 A. Yes.

25 Q. Is the document on the right-hand side a fair

DIRECT EXAMINATION - FIONA YIU

1 and accurate translation of the contents of the audio
2 file indicated on the left?

3 A. Yes.

4 MR. ARROWOOD: Your Honor, at this time, we
5 move to conditionally admit Government's Exhibit 10-C
6 and 11-B.

7 THE COURT: So admitted.

8 (Government's Exhibit 10-C and 11-B were
9 conditionally received into evidence.)

09:32AM 10 MR. ARROWOOD: Again, Your Honor, we'd like to
11 play this file and have the witness indicate when to
12 advance the page.

13 THE COURT: That's fine.

14 MR. ARROWOOD: Thank you.

15 (Audio file played in open court.)

16 MR. ARROWOOD: All right. Thank you.

17 (Government's Exhibit 10-D was marked for
18 identification.)

19 (Government's Exhibit 11-C was marked for
20 identification.)

21 BY MR. ARROWOOD:

22 I'd like to show you Government's Exhibit 10-D
23 on the left-hand side and Government's Exhibit 11-C on
24 the right. I'd like to direct your attention to the
25 file name that appears on the left-hand side of the

DIRECT EXAMINATION - FIONA YIU

1 screen. Have you listened to the audio file with that
2 name?

3 A. Yes.

4 Q. Did you review and finalize a translation of
5 the contents of the audio file indicated on the
6 left-hand side of the screen?

7 A. Yes.

8 Q. Will you please take a look at the document on
9 the right. What is that?

09:39AM 10 A. That is a translation of the contents of the
11 audio file on the left.

12 Q. Is that the version that you reviewed and
13 finalized?

14 A. Yes.

15 Q. Is the document on the right a fair and
16 accurate translation of the contents of the audio file
17 on the left?

18 A. Yes.

19 MR. ARROWOOD: At this time, Your Honor, we
09:40AM 20 move to conditionally admit Government's Exhibit 10-D
21 and 11-C.

22 THE COURT: So admitted.

23 (Government's Exhibits 10-D and 11-C were
24 conditionally received into evidence.)

25 MR. ARROWOOD: And, again, Your Honor, we ask

DIRECT EXAMINATION - FIONA YIU

1 permission to play this particular call and have the
2 witness indicate when to advance the page.

3 THE COURT: That's fine.

4 MR. ARROWOOD: Thank you.

5 (Audio file played in open court.)

6 MR. ARROWOOD: Thank you.

7 BY MR. ARROWOOD:

8 Q. Do you recall earlier in your testimony you
9 indicated that you had originally finalized these
09:45AM 10 translations and then made some additional edits; do you
11 recall that?

12 A. Yes.

13 Q. Why did you make those additional edits?

14 A. I reviewed the translation again, and for the
15 sake of thoroughness, I decided to -- given the
16 importance of the document, I decided to review it one
17 more time, and then I got it -- maybe formality-wise,
18 maybe abbreviation-wise, I could make it better. That's
19 why I make some additional edits.

09:46AM 20 Q. And you work for the FBI; is that right?

21 A. Yes.

22 Q. Are you a special agent with the FBI?

23 A. No.

24 Q. Are you a law enforcement agent?

25 A. No.

CROSS-EXAMINATION - FIONA YIU

1 Q. Do you attend agent training?

2 A. No.

3 Q. Prior to your involvement with these
4 translations that we reviewed today, were you aware of
5 this case?

6 A. No.

7 Q. During the course of your work on these
8 translations, did any law enforcement agent brief you on
9 the facts of this case?

09:47AM 10 A. No.

11 Q. Aside from the content of the material that you
12 reviewed and finalized, are you aware of any other facts
13 about this particular case?

14 A. No.

15 MR. ARROWOOD: No further questions, Your
16 Honor.

17 THE COURT: Thank you.

18 Cross-examination?

19 CROSS-EXAMINATION

09:47AM 20 BY MR. LOMONACO:

21 Q. Good morning, Ms. Yiu.

22 A. Good morning.

23 Q. Let me make sure I understand your process that
24 you went through, if I may.

25 A. Sure.

CROSS-EXAMINATION - FIONA YIU

1 Q. Did you say that these documents went up to
2 Washington and got translated first and then sent back
3 to you for you to do the final translation?

4 A. Yes.

5 Q. Okay. Do you know why Washington had to
6 translate these first?

7 A. It's part of FBI process. Usually a document
8 would not go through this second step, review and
9 finalization. It's only for translations that will be
09:48AM 10 used in court for trial.

11 Q. So they wanted somebody that had the best
12 expertise, I guess, to do the translations and make a
13 final document; is that what you're saying?

14 A. It's not necessary to have somebody that has
15 best expertise. The purpose is to have a second set of
16 eyes to go over the translation to have added accuracy
17 to ensure the quality of the translation.

18 Q. Okay. In the 2019 contract --

19 MR. LOMONACO: Could I see Government
09:49AM 20 Exhibit 7-K, please? Can you put that on, 7-K?

21 THE COURT: The government is going to assist.

22 MR. LOMONACO: Thank you.

23 Could we go to the bottom of the last page of
24 that, please. There we go.
25

CROSS-EXAMINATION - FIONA YIU

1 BY MR. LOMONACO:

2 Q. Okay. Can you see that on your screen?

3 A. Yes.

4 MR. LOMONACO: Is that being published?

5 THE COURTROOM DEPUTY: Yes, it is.

6 MR. LOMONACO: Okay.

7 BY MR. LOMONACO:

8 Q. If I could show you the circle there
9 (indicating).

09:50AM 10 A. Uh-huh.

11 Q. What does this say?

12 A. Party A.

13 Q. And the next?

14 A. Parentheses, Official Seal.

15 Q. Okay. And what's this down here in the bottom
16 (indicating)?

17 MR. LOMONACO: Oops.

18 BY THE WITNESS:

19 A. It's --

09:50AM 20 BY MR. LOMONACO:

21 Q. Is that the date?

22 A. Date. Equivalent -- equivalent of the English
23 date but rendered in Chinese is year, month, date.

24 Q. And this is the contract that you interpreted;
25 right, or translated?

CROSS-EXAMINATION - FIONA YIU

1 A. Yes.

2 Q. And what is this here (indicating)?

3 A. Party B in quote; signature in parentheses.

4 Q. Okay. Is there any signature on this document?

5 A. No.

6 Q. And this is a 2019 contract? That's what I
7 asked to put up there, but I can't tell.

8 Well, it says 2019 on the bottom; right?

9 A. It is, 2019.

09:51AM 10 MR. LOMONACO: Okay. Now, if we could go to
11 Government's Exhibit 11-L, which would be the translated
12 version.

13 And could we go to the bottom of page 2.

14 Right.

15 BY MR. LOMONACO:

16 Q. Now, you don't have any signature on that page
17 either; is that correct?

18 A. Correct.

19 Q. So, as far as you know, this contract was never
09:51AM 20 executed or signed by the parties?

21 A. I would say this document has no signature.

22 MR. LOMONACO: Okay. Now, if we went to
23 Exhibit -- hold on a minute.

24 If we go to Exhibit -- or the contract in
25 English, 11-Q, and if we could page down to Roman

CROSS-EXAMINATION - FIONA YIU

1 numeral III.

2 BY MR. LOMONACO:

3 Q. Do you see here a section that says, "Housing
4 support," that paragraph that says "Housing support"?

5 MR. LOMONACO: And if we could go to the 11-L
6 again and go down to section Roman numeral III.

7 BY MR. LOMONACO:

8 Q. Do you see at the bottom, it says, "Housing
9 support"?

09:53AM 10 A. Yes.

11 MR. LOMONACO: Okay. Now, can we go to the
12 Chinese version of 11-L, which is 7-K, and if we could
13 find section paragraph Roman numeral III again.

14 BY THE WITNESS:

15 A. Next page.

16 BY MR. LOMONACO:

17 Q. Are we there now?

18 A. Yeah.

19 Q. Okay.

09:53AM 20 A. No. Yeah, next page, please.

21 Q. Okay. Do you see anything there that talks
22 about "Housing support"?

23 A. Yes, it says here (indicating).

24 Q. Where is it?

25 A. The second line.

CROSS-EXAMINATION - FIONA YIU

1 Q. I'm sorry?

2 A. The second line from top to bottom, it says,
3 "Housing support".

4 Q. Right there (indicating)?

5 A. Uh-huh.

6 MR. LOMONACO: All right. May I have a moment,
7 please.

8 (A discussion was had off the record.)

9 BY MR. LOMONACO:

09:55AM 10 Q. Does that -- does that Chinese version of the
11 housing support include a housing allowance of 500 yuan
12 a month in the language there?

13 A. Can I see -- can I see the translation and the
14 source document?

15 MR. LOMONACO: If they can do it, that's fine.

16 BY MR. LOMONACO:

17 Q. So, in the English, we're going down to Roman
18 numeral III. Do you see on the bottom of the --

19 A. Will you please go to the first page of the
09:56AM 20 translation? I need to make sure that this is the
21 translation of the source document on the left. Please
22 go to the first page.

23 Q. Of the translated one?

24 A. Yes.

25 Yes, this is the translation. Please go to

CROSS-EXAMINATION - FIONA YIU

1 page 2 of the translation. Okay.

2 Q. So do you see the housing support section in
3 the Chinese version?

4 A. Okay. Yeah. That one is not in Chinese
5 version.

6 Q. Okay. So, in the English, it is inaccurate as
7 far as what the Chinese version says on that section?

8 A. This portion is inaccurate.

09:58AM 9 Q. Let me go, if I could now, back to the same
10 contract on the right, but go to the next page, and I'd
11 like to draw your attention, if I could, to the
12 section --

13 MR. LOMONACO: Is there any way we can make
14 that a little bit larger?

15 MS. DENARD: Which section?

16 MR. LOMONACO: The English, Section IV.

17 MS. DENARD: Evaluation?

18 MR. LOMONACO: No, not Roman numeral -- up here
19 in the middle (indicating). This section right here
09:59AM 20 (indicating). That's the section; right?

21 BY MR. LOMONACO:

22 Q. Okay. Do you see where it says, "Party A's
23 Rules and Regulations," and "Ensure working for Party A
24 for no less than two months"?

25 A. Uh-huh.

CROSS-EXAMINATION - FIONA YIU

1 MR. LOMONACO: Okay. If we could go to the
2 Chinese version Section IV.

3 BY THE WITNESS:

4 A. Uh-huh.

5 MR. LOMONACO: Is that the right section?

6 BY MR. LOMONACO:

7 Q. Okay. Does that section also -- besides
8 saying, "ensure working," does it say, "ensure actual
9 working time onsite of Party A"?

09:59AM 10 A. Yes.

11 Q. So that would be a more accurate translation
12 than what we have here; right?

13 A. No, working for Party A is accurate.

14 Q. I'm sorry?

15 A. My translation is accurate.

16 Q. All right. So Section IV in Chinese has the
17 added words, "ensure actual working time onsite".
18 "Onsite"?

19 A. Yes, "onsite" means working for Party A.

10:00AM 20 Q. Okay. Working for Party A, but onsite is a
21 little bit different, isn't it?

22 A. No.

23 Q. Onsite means in China?

24 A. Onsite means in the premises of Party A.

25 Q. So your interpretation is "ensure working for

CROSS-EXAMINATION - FIONA YIU

1 Party A" means in China; working in China for Party A?

2 A. Here "onsite," if it is a literal translation,
3 the meaning is working for Party A; work in the position
4 offered by Party A.

5 Q. Okay. So the literal translation includes
6 working for Party A at Party A or in Party A?

7 A. No.

8 Q. Well, okay. I'm trying to understand what
9 you're saying. Evidently you've told me there is two
10 variations of this interpretation; correct?

11 A. No, I didn't say that.

12 Q. You said the literal interpretation.

13 A. Literal translation, yes, report to position.
14 If you say literal, report to position.

15 Q. In English, the literal translation would be
16 what?

17 A. Working for Party A.

18 Q. Working for Party A?

19 A. Uh-huh.

10:02AM 20 Q. Now, are you saying that it doesn't include
21 working for Party A onsite?

22 A. Would you please repeat?

23 Q. The Chinese section, does it include "ensure
24 actual working time onsite"?

25 A. I don't understand -- I don't interpret it as

CROSS-EXAMINATION - FIONA YIU

1 onsite. I would say report to duty.

2 Q. What?

3 A. Report to duty or report to position and work
4 at the position for no less than two months.

5 Q. Okay. So that's what it says?

6 A. Uh-huh.

7 Q. Report to duty?

8 A. Report and perform duty for less than -- no
9 less than two months.

10:02AM 10 Q. Report --

11 A. Uh-huh.

12 Q. -- and perform duty?

13 A. Uh-huh.

14 Q. Report where; does it say?

15 A. Party A.

16 Q. Report to Party A?

17 A. Uh-huh.

18 Q. And perform your duties?

19 A. Uh-huh.

10:02AM 20 Q. Okay. That's your -- that's your best
21 interpretation?

22 A. Yes.

23 Q. Okay. Excuse me a moment.

24 (A discussion was had off the record between
25 the defendant and his counsel.)

CROSS-EXAMINATION - FIONA YIU

1 BY MR. LOMONACO:

2 Q. So if we wanted to have a further and more
3 complete translation of that section, we could include
4 the words "report for duty" and "work for Party A," or
5 tell me again what you said. "Report" --

6 A. Yes. Report for duty; report and perform the
7 duty for no less than two months. And the meaning as
8 it -- based on my understanding, work for Party A for no
9 less than two months.

10:04AM 10 Q. And is it your understanding that report for
11 duty would mean to go to China and work?

12 A. Yes.

13 MR. LOMONACO: Okay. Thank you.

14 THE COURT: Thank you. Any redirect?

15 MR. ARROWOOD: No, Your Honor. We don't have
16 anything.

17 THE COURT: All right. Thank you. This
18 witness may be excused. Thank you.

19 Do we have anybody before our video witness?

20 10:04AM MR. ARROWOOD: No, Your Honor, we don't have
21 anyone before then.

22 THE COURT: Do we think we can get him or her
23 maybe 10:30 versus 11:00, possibly?

24 MR. ARROWOOD: We can certainly work on it,
25 yes.

1 THE COURT: All right. The next witness is a
2 video witness. We've been anxiously awaiting and
3 pulling the screen forward.

4 We had that witness scheduled for 11:00. Why
5 don't we go ahead and take a recess, and maybe a little
6 bit longer morning recess, but if we get the witness
7 before 11 o'clock our time, we'll let you know. But why
8 don't we plan for at least a 30-minute recess right now.
9 And if it needs to be a little longer, we appreciate
10 your patience with us.

11 We'll stand in recess.

12 (Jurors excused from the courtroom.)

13 THE COURT: Let me go ahead and address
14 defendant's request yesterday, I guess, prospective
15 request or preemptive request to admit exhibits
16 consisting of the PowerPoint presentations allegedly
17 made to certain University of Tennessee officials during
18 his cross-examination of FBI agent or agents.

19 The Court first notes that the defendant has
20 been permitted to ask University of Tennessee witnesses
21 about these presentations on cross-examination, and
22 although the exhibits have not yet been admitted into
23 evidence at this point, the Court has not curtailed
24 defendant's ability to discuss the presentations and the
25 exhibits with the University of Tennessee witnesses and

1 question these witnesses about what impact such
2 presentation may have had on their subsequent actions
3 and testimony in court.

4 As to defendant's request to introduce these
5 exhibits into evidence while cross-examining FBI
6 witnesses, the government objects on the grounds of
7 hearsay and relevance.

8 The Court has now reviewed the proposed
9 exhibits and will permit defendant to introduce these
10 exhibits during his cross-examination of FBI witnesses.

11 First, the Court does not find these exhibits
12 are objectionable on the grounds of hearsay as defendant
13 does not seek to introduce the statements contained
14 therein for the truth of the matter asserted. Instead,
15 defendant seeks to admit such exhibits to show the state
16 of mind and potential bias of witnesses, which the Court
17 finds to be a proper ground for admission of these
18 exhibits.

19 Additionally, the Court finds that the exhibits
20 have some relevance in that defendant intends to present
21 arguments regarding witness's credibility through such
22 evidence.

23 Moreover, the Court finds the relevance of the
24 evidence is not substantially outweighed by any factor
25 listed in Rule 403 of the Federal Rules of Evidence.

1 Accordingly, the Court will permit the
2 defendant to introduce the exhibits, which the Court
3 understands to be Defendant's Exhibits 13, 14, and 25,
4 during his cross-examination of FBI witnesses.

5 Finally, the Court also notes the government
6 has requested that if the defendant is permitted to
7 introduce these exhibits that it be permitted to
8 introduce the corresponding exhibits listed in the
9 PowerPoint presentations for purposes of rehabilitation
10 or otherwise, and the Court will permit the government
11 to introduce as evidence those exhibits listed in the
12 PowerPoint presentation exhibits, to the extent they
13 relate to issues brought up on cross-examination.

14 We're going to make that ruling so the parties
15 can prepare accordingly potentially for tomorrow's
16 testimony.

17 MR. LOMONACO: Thank you, Your Honor.

18 THE COURT: All right. So let's take a recess.
19 We'll say probably until -- well, until the witness is
20 available, but probably 10:45. Perhaps if we can start
21 15 minutes early, that would be good.

22 MR. ARROWOOD: Thank you, Your Honor.

23 MR. LOMONACO: Thank you, Your Honor.

24 THE COURTROOM DEPUTY: This honorable court
25 stands in recess.

1 (A brief recess was taken.)

2 THE COURTROOM DEPUTY: All rise.

3 THE COURT: The Court understands our witness
4 is appearing by videotape is now ready. We appreciate
5 her cooperation in starting a few minutes before her
6 scheduled time. So we'll bring the jury in and proceed.

7 (Whereupon the following report of

8 proceedings was had within the presence
9 and hearing of the jury:)

10:47AM 10 THE COURT: All right. Everyone please be
11 seated.

12 As the jury can see, and as we've discussed,
13 the next witness, and I believe the witness after that,
14 will be testifying via on the monitor and on your
15 monitors via video -- live via video screen testimony.
16 That is by agreement of the parties, as well as approval
17 from the Court. So you should consider this testimony
18 as you have all the other testimony in this case as if
19 this witness were appearing live in court.

10:48AM 20 So we'll swear in the witness.

21 (The witness was thereupon duly sworn.)

22 THE COURTROOM DEPUTY: And would you please
23 state and spell your name for the record.

24 THE WITNESS: Kathryn Manzanares,
25 K-a-t-h-r-y-n. M-a-n-z-a-n-a-r-e-s.

DIRECT EXAMINATION - KATHRYN MANZANARES

1 THE COURTROOM DEPUTY: Thank you.

2 KATHRYN MANZANARES,

3 having been first duly sworn, was examined and testified
4 as follows:

5 DIRECT EXAMINATION

6 BY MR. ARROWOOD:

7 Q. Good morning, Ms. Manzanares.

8 A. Good morning.

9 Q. Would you please tell the jury where you work.

10:48AM 10 A. I work for Jet Propulsion Laboratory in
11 Pasadena, California.

12 Q. What is Jet Propulsion Lab?

13 A. Jet Propulsion Laboratory is an FFRDC, which
14 stands for Federally-Funded Research and Development
15 Center. So we are contracted with NASA to do research
16 and development.

17 Q. Is Jet Propulsion Lab part of the California
18 Institute of Technology?

19 A. Yes, we are. We are Cal Tech.

10:49AM 20 Q. Okay. And what's your position at JPL?

21 A. I am a subcontracts manager.

22 Q. How long have you been a subcontracts manager?

23 A. Seven years.

24 Q. And what did you do before becoming a
25 subcontracts manager?

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1 A. I worked at a legal office, a small firm. I
2 was more of their manager. But I did legal work for the
3 lead attorney there, too.

4 Q. Would you please describe for the jury briefly
5 your educational background.

6 A. I have a bachelor's degree in political science
7 from California State University at North Ridge.

8 Q. Would you please describe some of the duties of
9 the job of a subcontracts manager at JPL.

10:50AM 10 A. A subcontract manager handles proposals through
11 the science projects. We are tasked with creating and
12 executing contracts for JPL. So we are solely the only
13 division who can put the lab at risk; meaning we can
14 financially obligate the lab.

15 Other than that, when it comes to the science
16 part, we work hand in hand with the projects in order to
17 execute what it is that they're looking for, depending
18 on -- depending on the level of work that they want.

19 Q. So in your role as a subcontracts manager, are
20 you able to sign contracts on behalf of the Jet
21 Propulsion Lab?

22 A. Yes, depending on -- depending on your level, I
23 mean, and then currently you can sign a contract of any
24 dollar value.

25 Q. Can you please describe for the jury what those

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1 dollar values are and what the corresponding level is.

2 A. Sure. So if you're entry level, it means
3 you're level one, you have a signing authority of 100K
4 or 100,000; meaning you are responsible for signing that
5 subcontract that you did your part in and that you did a
6 thorough job in order to be able to assess the risk.
7 For level two means 250K. Level three, 400. Level
8 four, I believe goes up to seven, and so forth. It goes
9 up to level six.

10:51AM 10 Q. And what level are you?

11 A. I'm a level three.

12 Q. Again, just to remind the jury, what threshold
13 amount does that correspond to?

14 A. 400.

15 Q. Now, did JPL provide any training for you in
16 how to be a subcontracts manager?

17 A. Yes. When I was hired back in 2014, one of the
18 first requirements that we have to do is you have to do
19 mandatory trainings, and those mandatory trainings are
20 how to -- how to and understanding subcontract types,
21 terms and conditions, and cost types.

22 So early on we're given those trainings that we
23 have to take within our first six months, and then after
24 that, we're highly encouraged to do refresher courses at
25 least every one to two years.

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1 Q. And have you taken refresher courses?

2 A. Yes, I do, yearly.

3 Q. Do you recall what some of those topics are
4 from your refresher courses?

5 A. Some of the ones that I've been doing are just
6 mostly on the subcontract type with issues we have had
7 with cost type of contracts, risks that we should have
8 evaluated better, how to assess proposals, how to manage
9 costs. We try to do refreshers on terms and conditions.

10:53AM 10 A lot of our terms didn't really change. We had a GP
11 set in 2014, which when that -- this contract was
12 executed, and then we have a new NASA prime contract
13 that started in 2019.

14 Q. I believe in your answer you mentioned the term
15 GPS.

16 A. I'm sorry. GP stands for general provisions.
17 Those are our terms and conditions.

18 Q. All right. So we'll get into some of those
19 specifics in just a moment, but have you taken any
10:53AM 20 training specific to terms and conditions of contracts?

21 A. Yes, we -- we have -- when I first started,
22 that was one of the first classes we had to take, and it
23 just gives you an overview of the terms and conditions
24 that we handle and go through. So they kind of just --
25 it's a very high overview of what the terms and

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1 conditions stand for, when it's applicable and when it's
2 not applicable.

3 Q. Okay. So would JPL engaged in a contract to do
4 research, is that technically a subcontract?

5 A. Yes, it is a subcontract.

6 Q. And just sort of describe for the jury why is
7 it a subcontract.

8 A. The reason why it is a subcontract is at the
9 contract level, when our contracting office sends out
10 their proposals at the beginning, that's how they're
11 able to obtain the budgets that the project needs. And
12 during that time the project has an idea or a list of
13 the amount of money that they are looking for in order
14 to continue whatever it is that they're building or
15 doing research for. And at that point on, they will
16 then trickle down to finding who these suppliers are,
17 or, in this case, universities or principal
18 investigators that they want to do the work with. So
19 that's why they're a subcontract because they were
20 awarded in the beginning with the prime contract. So
21 the project is given the money, that's their contract,
22 and then it's flowed down from there to the
23 subcontracts.

24 Q. Okay. So just so I understand, is it fair to
25 say that NASA and JPL have a contract where JPL is to

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1 perform work for NASA; does that sound right?

2 A. Yes.

3 Q. Please correct me if I'm wrong. I'm just --
4 and then is it right to say that when JPL engages in
5 contracts with others, it is a subcontract under that
6 larger contract between NASA and JPL?

7 A. Exactly.

8 Q. Now, if you know, do the terms and conditions
9 that apply to NASA contracts flow down to the
10 subcontracts that JPL signs?

11 A. Yes, it does. So because we have a prime
12 contract with NASA, those terms and conditions that's
13 embodied in the NASA part is actually flowed down into
14 our subcontracts.

15 Q. Okay. Would you please describe for the jury
16 briefly what the subcontracting process is for JPL. I
17 know you mentioned it a little bit in some of your
18 answers, but if would start from the beginning in terms
19 of how a principal investigator, particularly at a
20 university, might begin the process of obtaining a
21 subcontract with JPL.

22 A. So it can happen in two ways that are typical
23 for JPL. First is: We do a competitive announcement,
24 or, in this case, we sometimes do what are called NASA
25 announcement of opportunities. When that happens, it's

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1 a public forum, and the statement of work is posted for
2 pretty much anyone who is interested to send in a
3 proposal. And at that time when the proposals are
4 submitted at the deadline, there is a select group from
5 NASA who will go through the proposals and select the
6 best candidates.

7 So when that happens, usually JPL will
8 collaborate with principal investigators, which are
9 scientists from universities. They will put a proposal
10 together and submit it, and if they're selected, they're
11 awarded the money. And then the money is given to JPL,
12 or the contract is given to JPL and then we flow that
13 down into the university.

14 The second way that we execute subcontracts is:
15 The scientist has the concept or an idea that they want
16 to do their research on. They have an idea of who or
17 what universities can perform the work. So they will
18 reach out to the subcontract manager who is in charge of
19 either that university or that state and let them know
20 that they're interested to do work with the university
21 and they will give us their statement of work, and from
22 there, we'll reach out to the university in order to get
23 a formal proposal from them which has the statement of
24 work; it has the letter that -- it has their proposed
25 budgets, their rates and so forth.

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1 So we -- I -- typically I would take all that
2 into consideration, look at the dollar value, see what
3 it is that JPL is looking for, and then as long as the
4 university can meet that budget, it's fair and
5 reasonable, and that if they have done further work or
6 I'll further assess and see how well I can justify that
7 this is the only university who can do the work for us,
8 and as long as everything lines up, I go ahead and I
9 sign and execute the contract.

10:58AM 10 Q. Is it fair to say that the second type of
11 process that you described is not competitive?

12 A. Yes. So we prefer -- or at least JPL prefers
13 to do competitive type of subcontracts, meaning we want
14 everything -- we want for it to be a fair competition.
15 But we do understand that there are people who are
16 experts in the field, and if it's justifiable and that
17 they are the only ones, we do execute contracts based on
18 noncompetitive measures.

19 Q. Okay. What is a cost reimbursable with an
20 educational institution?

21 A. It is a subcontract type that we use. "We,"
22 meaning universities under an acquisitions division, we
23 use that particular subcontract type with universities.

24 Q. Are there other types of subcontracts?

25 A. Yes. We also execute cost reimbursable with

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1 fee or without fee. But that is typically used with
2 non-profits. And then we use RSAs, which are called
3 research supported units, and that's a special type of
4 contract awarded by NASA to be used for research.

5 Q. Now, do you specialize in any specific type of
6 subcontract?

7 A. What do you mean? I'm sorry. Could you --

8 Q. Sure. Do you -- for example, do you work
9 mostly on the cost reimbursement with educational
11:00AM 10 institutions versus RSAs, or do you do all the different
11 types of subcontracts?

12 A. I do all three. So I do the three that I just
13 described, which is the cost reimbursable with an
14 education institution. I handle RSAs. I also handled
15 the cost -- cost types of contracts with non-profits
16 because -- and I also handle fixed price with foreign
17 education institutions, also.

18 Q. All right. Now, based on your experience as a
19 subcontracts manager, are you generally familiar with
11:00AM 20 the terms and conditions that apply to NASA contracts?

21 A. Yes, I am.

22 (Government's Exhibit 8-M was marked for
23 identification.)

24 BY MR. ARROWOOD:

25 Q. Okay. All right. Now I'd like to start

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1 showing you some documents. I'd like to show you what's
2 been marked as Government's Exhibit 8-M, as in Mike.

3 Of you can't see this document, please let me
4 know once we have it up.

5 A. I can see it.

6 Q. Okay.

7 MR. ARROWOOD: So please scroll to the bottom.

8 Okay. Back up. Right there (indicating).

9 Okay. Thank you.

11:01AM 10 BY MR. ARROWOOD:

11 Q. Please just take a second and read this to
12 yourself.

13 Do you recognize this?

14 A. Yes, I do.

15 Q. What is this?

16 A. This is the email I sent back on October 11,
17 2016. When I finished and finalized the subcontract, I
18 cents it to Tara Halstead, who is my point of contact at
19 the University of Tennessee.

11:01AM 20 Q. I see there on the cc line is an individual
21 identified as Yoseph Bar-Cohen. Do you see that?

22 A. Yes.

23 Q. Who is Yoseph Bar-Cohen?

24 A. He is my CTM, which stands for contract
25 technical manager. So he's the scientist.

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1 Q. Okay. And now I'll direct your attention to
2 the subject line. Will you please read that for the
3 jury?

4 A. Sure. It says it says, (as read) "Related to
5 Jet Propulsion Laboratory, Subcontract 1560728."

6 Q. And so what are you doing in this email?

7 A. I'm letting the university know or Tara know
8 that this is in regards to the subcontract that we were
9 negotiating and that I am ready to -- I am attaching it
11:02AM 10 to this email because it's already been put together and
11 it's ready for their signature for them to review -- or
12 review and then their signature.

13 MR. ARROWOOD: Your Honor, before I go any
14 further, I'd like to admit Government's Exhibit 8-M into
15 evidence.

16 THE COURT: So admitted.

17 (Government's Exhibit 8-M was received into
18 evidence.)

19 MR. ARROWOOD: Okay. Will you please scroll up
11:03AM 20 to the top email.

21 BY MR. ARROWOOD:

22 Q. Take just a second and read this for me,
23 please.

24 Is this a response to your previous email?

25 A. Yes, it was.

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1 Q. Would you just describe for the jury what's
2 going on in this email.

3 A. In this email Tara responded on October 20th
4 that she is attaching a signed -- a signed copy of the
5 contract that I had sent them requesting that I do a
6 bilateral signature.

7 Q. And what do you mean by "bilateral signature"?

8 A. So this subcontract has only been partially
9 signed, meaning they're the only ones that signed it so
11:03AM 10 far. So since they signed it without any -- you know,
11 any refusals or requests for changes, I'm going to go
12 ahead and sign it and then send them the copy with my
13 signature making it a bilateral execution.

14 Q. Okay. I'd like to direct your attention there
15 to the top of the email. Does this email indicate
16 whether there are any attachments to it?

17 A. Yes. It says that the subcontract I sent them
18 is attached and was signed on October 20th.

19 Q. Do you recall what state of the United States
11:04AM 20 you were in when you received this email?

21 A. Yes, in California.

22 Q. All right. Thank you.

23 Now I'd like to show you the attachment.

24 MR. ARROWOOD: Please show the witness
25 Government's Exhibit 8-N, as in November.

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1 Your Honor, I believe this has already been
2 admitted.

3 BY MR. ARROWOOD:

4 Q. Ms. Manzanares, do you recognize this document?

5 A. Yes, I do.

6 Q. What does it appear to be?

7 A. This is the subcontract that I put together and
8 executed and then sent over to the University of
9 Tennessee. So this is what our cost reimbursable
11:05AM 10 education subcontract looks like.

11 Q. Will you please read for the jury the
12 subcontract number up in the top right-hand corner.

13 A. Unfortunately -- oh, there, we go. It's
14 1560728.

15 MR. ARROWOOD: Okay. Please scroll down.

16 BY MR. ARROWOOD:

17 Q. What's the name of the subcontractor?

18 MR. ARROWOOD: Sorry. Go back up.

19 BY THE WITNESS:

11:05AM 20 A. University of Tennessee, Knoxville.

21 BY MR. ARROWOOD:

22 Q. And what are the effective dates for this
23 subcontract?

24 A. Effective dates starts on October 11, 2016, and
25 it ends on October 31st -- I believe it's 2017. I

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1 cannot see it.

2 Yes, 2017.

3 Q. Okay. And how much money is involved in this
4 particular subcontract?

5 A. The estimated cost for this contract is 60,000.

6 Q. Okay. And right below the amounts where it
7 indicates point of -- points of contact, I'd like to
8 direct your attention to the entry for the principal
9 investigator. Who is the principal investigator on this
11:06AM 10 subcontract?

11 A. Dr. Anming Hu.

12 Q. Are you the subcontracts manager on this?

13 A. Yes, I am.

14 Q. Is that your email address indicated on the
15 right-hand column?

16 A. Yes, it is.

17 Q. And then under Technical Manager, is that
18 Dr. Yoseph Bar-Cohen?

19 A. Yes, that is.

11:06AM 20 MR. ARROWOOD: Okay. I'd like to scroll down
21 just a little bit further.

22 BY MR. ARROWOOD:

23 Q. Will you please read what's in the box with the
24 words beginning, "The below parties..."

25 A. "The below parties have agreed to subcontract's

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1 terms and conditions and to the effect- " -- I can't see
2 it.

3 Q. Hopefully we can fix this for you.

4 Can you see it now?

5 A. Uh-uh. I can only see it as far as "...and to
6 the effective."

7 Q. Any better?

8 A. No, unfortunately. On my screen, like where I
9 can see you and I can see me is blocking.

11:07AM 10 MR. ARROWOOD: Okay. Maybe we can blow up that
11 one portion and then move it to the side so she can see
12 it.

13 BY THE WITNESS:

14 A. Oh. "...to the effective start date."

15 Q. Okay. Great. Thank you.

16 Scrolling down there to where it indicates
17 signatures, is there a signature on the right-hand side
18 of the screen?

19 A. Yes, there is.

11:07AM 20 Q. Who signed the document?

21 A. I believe it says Jean Mercer.

22 Q. The date?

23 A. October 20th, 2016.

24 Q. And on the left-hand side, do you see any
25 signatures?

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1 A. No, not yet.

2 Q. And that's you identified there; is that
3 correct?

4 A. Yes, it is.

5 Q. Why is there a Roman numeral -- or a Roman
6 Number II after Manager on your title?

7 A. So a subcontracts manager, it was our division
8 policy to put what level we are, and at that time I was
9 a level II.

11:08AM 10 Q. Okay.

11 MR. ARROWOOD: All right. If you'll please
12 scroll back up to the top of this document. Stop right
13 there (indicating).

14 BY MR. ARROWOOD:

15 Q. Do you see there where there is a bullet point
16 and it begins, "General Provisions"?

17 A. Uh-huh.

18 Q. What are the general provisions, generally
19 speaking?

11:08AM 20 A. General provisions are -- these are the terms
21 and conditions for this specific, so what is applicable.

22 Q. It appears that these are dated -- or the
23 general provisions that apply to this subcontract are
24 dated April 2014; is that right?

25 A. That's correct.

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1 (Government's Exhibit 8-AA was marked for
2 identification.)

3 BY MR. ARROWOOD:

4 Q. Okay. Now I'd like to show you Government's
5 Exhibit 8-AA. Do you recognize this document?

6 A. Yes, I do.

7 || Q. What is it?

8 A. These are our terms and conditions for cost
9 reimbursable education institution.

11:09AM 10 MR. ARROWOOD: Please just scroll down to the
11 bottom of this page. Keep going. A little further.
12 Right there (indicating).

13 || BY MR. ARROWOOD:

14 Q. Do you see where the government's exhibit
15 sticker is on the bottom right-hand side?

16 A. No, it's blocked.

17 Q. Okay. Let's see if I can fix this for you.

18 A. Yes, I do.

19 Q. Okay. So disregard the exhibit sticker, but
20 below the exhibit sticker, what do you see?

11:10AM 20 below the exhibit sticker, what do you see?

21 A. It says, (as read), "JPL April 2014."

22 Q. So are these the general provisions that we
23 just -- or that were just identified in the previous
24 document?

25 A. Yes, it is.

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1 MR. ARROWOOD: Okay. Would you please scroll
2 to page 2. Just page 2. Scroll down.

3 BY MR. ARROWOOD:

4 Q. Are you generally familiar with these terms and
5 conditions?

6 A. Yes, I am.

7 Q. All right. I'd like to direct your attention
8 to the final entry on the page. Please read that to the
9 jury.

11:10AM 10 A. "Restrictions on Funding Activity With China."

11 Q. Are you familiar with that restriction?

12 A. Yes, I am.

13 Q. Based on your experience, is this restriction
14 included on all subcontracts with JPL?

15 A. Yes, it is.

16 MR. ARROWOOD: All right. If we could please
17 go to page 20. Scroll down, please.

18 Right there's good (indicating).

19 BY MR. ARROWOOD:

11:11AM 20 Q. Do you recognize the language depicted on the
21 screen?

22 A. Yes, I do.

23 Q. What is this?

24 A. So this is the terms and conditions that
25 tells -- that --

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1 THE COURT: Hold on a second. I think we lost
2 the sound.

3 BY MR. ARROWOOD:

4 Q. Ms. Manzanares, if you can hear us, we can't
5 hear you. So please hold on for just a moment.

6 THE COURT: What do we need to do, Julie?

7 BY MR. ARROWOOD:

8 Q. Can you hear us, Ms. Manzanares?

9 A. Yes, I can hear you.

11:12AM 10 Q. Okay. Great. All right. I'd like to direct
11 your attention to paragraph (d). Do you see paragraph
12 (d)?

13 A. Uh-huh.

14 Q. Will you please read that to the jury.

15 A. "The subcontractor represents that the
16 subcontractor is not China or a Chinese-owned company."

17 Q. Okay. And then refer back to paragraph (a) at
18 the top of this restriction. Would you read that for
19 the jury.

11:12AM 20 A. Sure. "Definition - 'China' or 'Chinese-owned
21 company' means the People's Republic of China or any
22 company" -- I cannot see.

23 Oh. (As read) "...any company owned" -- I
24 think it's, "...any company owned by the People's
25 Republic of China or any company incorporated under the

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1 laws of the People's Republic of China."

2 Q. Thank you.

3 A. Uh-huh.

4 MR. ARROWOOD: Your Honor, government moves to
5 admit Government's Exhibit 8-AA.

6 THE COURT: So admitted.

7 (Government's Exhibit 8-AA was received into
8 evidence.)

9 BY MR. ARROWOOD:

11:13AM 10 Q. Now I'd like to show you Government's
11 Exhibit 6-B. I believe this has already been admitted.

12 Can you see that document?

13 A. Yes, I can.

14 Q. Are you able to see the subcontract number on
15 the top right-hand side?

16 A. Uh-huh.

17 Q. What does it say?

18 A. 1560728.

19 Q. Now I'd like to direct your attention to the
11:14AM 20 bottom portion of this page where it indicates the
21 signatures. Now, this document on the left-hand side,
22 is there a signature?

23 A. Yes, there is.

24 Q. Is that your signature?

25 A. Yes, that's my electronic signature.

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1 Q. Is this the fully-executed version of the
2 subcontract that we saw in -- earlier during your
3 testimony?

4 A. Yes, it is.

5 Q. Do you recall whether or not you ever reviewed
6 any of the proposal documents for this subcontract?

7 A. I believe so.

8 Q. Do you typically look at the proposal documents
9 for subcontracts?

11:14AM 10 A. Yes, we do.

11 Q. Why do you look at them?

12 A. For multiple reasons. One of the biggest is:
13 We make sure that obviously it has the letterhead of the
14 university, that the title of the proposal is the same
15 from the one that was given to us, that the statement of
16 work reflects the same statement of work that our CTM or
17 our contract technical manager sent to us, and then we
18 look to make sure that the proposed budget -- that the
19 proposed hours and material costs and so forth is true
20 and accurate, along with their fees or fringes, and then
21 if there is anything else we need to attach, we take a
22 look to see if it's applicable.

23 Q. So I'd like to show you Government's
24 Exhibit 8-K.

25 MR. ARROWOOD: Your Honor, I believe this has

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1 already been admitted.

2 BY MR. ARROWOOD:

3 Q. Can you please read the title of this to the
4 jury, if you can see it?

5 A. (As read) "Nanobrazing stainless steel
6 containers for the breaking" -- "for breaking the
7 chain-of-contact Mars Sample Return Mission."

8 Q. And underneath the title, what appears on the
9 document?

11:16AM 10 A. It has the PI's name, so Anming Hu, University
11 of Tennessee, Knoxville, Oak Ridge National Lab.

12 Q. And does this appear to be a typical statement
13 of work that you would see in reviewing proposals?

14 A. Yes.

15 (Government's Exhibit 8-L was marked for
16 identification.)

17 BY MR. ARROWOOD:

18 Q. All right. I'd now like to show you
19 Government's Exhibit 8-L. Do you recognize this type of
11:16AM 20 document?

21 A. Yes, I do.

22 Q. What is it generally?

23 A. Generally this is just an overview of the
24 budget justification; meaning they tell you who the
25 personnels are who will be doing the work, cost of work,

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1 how long they will be doing it, if it will have -- if
2 they will have a student or an assistant, they will give
3 us the fridge rate that they charge, which a typical for
4 university's fridge kind of encompasses like costs to be
5 reimbursed for the university, if there are supplies
6 that they need to buy, publishing the costs.

7 MR. ARROWOOD: Your Honor, the government moves
8 to admit Government's Exhibit 8-L.

9 THE COURT: So admitted.

11:17AM 10 (Government's Exhibit 8-L was received into
11 evidence.)

12 BY MR. ARROWOOD:

13 Q. I'd like to direct your attention to the top
14 paragraph under the heading Personnel. Will you please
15 just read that to yourself.

16 Where does this document indicate that Anming
17 Hu works?

18 A. It's right in the beginning that he's an
19 assistant professor in the Department of Mechanical,
11:18AM 20 Aerospace and Biomedical Engineering at the University
21 of Tennessee.

22 Q. Is there any mention of the Beijing University
23 of Technology?

24 A. No.

25 Q. Okay. Earlier you mentioned that you do review

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1 proposal documents. Is this budget justification that
2 we just saw, is that typically included with proposal
3 documents?

4 A. Yes, it is.

5 Q. In your review of a budget justification like
6 the one we saw, if a principal investigator had
7 identified that he or she was employed at a Chinese
8 university, would that have raised any red flags for
9 you?

11:18AM 10 A. Yes, it would have.

11 Q. Why?

12 A. Well, first, our subcontract is being executed
13 with the University of Tennessee. So we would like to
14 know what -- what affiliation he or she has with a
15 foreign university, and if our -- if our funding is
16 actually going to that university. If so, we would have
17 to let them know that we can't execute that subcontract.

18 Q. If you saw that in that budget justification or
19 another different type of proposal document, what would
11:19AM 20 you have done specifically?

21 A. First and foremost, I would definitely reach
22 out to my contract technical manager to let him know
23 that their proposal is stating that the PI is employed
24 with a foreign institution and it is with China and if
25 he had any knowledge of it, and if they are planning to

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1 send any of the funding to that university, and if they
2 say no, I would have to reach out to the University of
3 Tennessee to let them know my findings and to find out
4 where the funding is going. And if it does show that
5 any of the funding goes outside of the University of
6 Tennessee, I would have to let them know that we cannot
7 execute the subcontract based on our terms and
8 conditions.

9 Q. In your time as a subcontracts manager, have
10 you ever seen a principal investigator on a proposal
11 document indicate that he or she is employed at a
12 Chinese university?

13 A. No.

14 Q. Do you or do people in your office that you
15 know of do any independent research to determine whether
16 or not the principal investigator or others working on
17 potential subcontracts have any affiliation with any
18 entity in China?

19 A. Not necessarily. What we do -- what we do in
11:20AM 20 our part and a lot of my colleagues is: We do make sure
21 that, one, obviously the principal investigator is
22 employed at the university. We do independent research
23 to see if they're found on the website, publications
24 that they have done, if it correlates to the proposal
25 that we are doing for the subcontract. Other than that,

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1 that's as far as we go.

2 Some of the -- at other times we've noticed
3 that we have principal investigators who are affiliated
4 to JPL. That means they're working for us directly and
5 they are on our lab. So we have to make sure that the
6 subcontract called out that they are not a JPL employee,
7 but they are an affiliate, but the funding is being sent
8 to the university and the university is paying that
9 principal investigator and not JPL.

11:21AM 10 Q. Is it your understanding that by signing a
11 subcontract that the university is indicating that it
12 will comply with terms and conditions of the
13 subcontract?

14 A. Yes.

15 Q. Do you rely on representations by universities?

16 A. Yes, of course.

17 Q. If after the execution of a subcontract you
18 became aware that a principal investigator was employed
19 at a university in China, what, if anything, would you
11:22AM 20 do?

21 A. First off we would have to let our -- our legal
22 advisors know of the information that we found out, let
23 obviously my group supervisor and our section manager
24 know, and then we would have to have a meeting with the
25 university to find out our findings or at least my

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1 findings to see if they had any knowledge, and if they
2 did, we would quickly have to remind them that we would
3 have to cancel that subcontract based on the fact that
4 we cannot do contracts with China.

5 Q. Has that ever happened in your experience?

6 A. Not to my knowledge so far.

7 Q. Okay.

8 MR. ARROWOOD: All right. Thank you very much.

9 No further questions, Your Honor.

11:23AM 10 THE COURT: Thank you.

11 Cross-examination?

12 CROSS-EXAMINATION

13 BY MR. LOMONACO:

14 Q. Good morning, Ms. Manzanares. Am I pronouncing
15 that correctly?

16 A. Yes, Manzanares.

17 Q. Thank you. Manzanares.

18 Let me ask you a few questions, if I may,
19 please. This is a 2016 proposal that we're talking
11:23AM 20 about; is that correct?

21 A. Yes.

22 Q. And contract?

23 A. Uh-huh.

24 Q. Okay. Do you review the proposals when they
25 come in?

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1 A. Yes, I do, or when they're emailed or submitted
2 to me.

3 Q. Did you review the proposal from the University
4 of Tennessee in this case?

5 A. Yes, I did.

6 Q. Are you familiar with an assurance letter that
7 University of Tennessee would attach to the proposal?

8 A. No, I don't think so.

9 Q. Okay. Did you see a document that said
10 Assurance on it in the proposal?

11 A. No, I didn't.

12 Q. And to explain a little bit more, the assurance
13 would be the proposer assures -- in this particular
14 case, in this case, JPL or NASA, that it is not -- and
15 I'm paraphrasing, but that it is not China or a Chinese
16 company, and that kind of assurance, you didn't see a
17 document saying that?

18 A. No, I don't think so.

19 Q. Okay. And you are expecting assurances from
20 the proposer that they are not China or a Chinese
21 company. That's in the contract itself; right?

22 A. It's -- our contract states that we don't do
23 contract -- or contracts with China. We -- it's
24 not -- we don't ask for assurances, but when they sign
25 the contract, they acknowledge our terms and conditions.

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1 Q. They acknowledge what? I'm sorry?

2 A. They're acknowledging our terms and conditions,
3 and one of those terms and conditions is what I had read
4 earlier.

5 Q. So -- yeah. I stand corrected. That language
6 is in your terms and conditions that I just mentioned;
7 right?

8 A. Yes, it is.

11:25AM 9 Q. Okay. This contract, subcontract was

10 completed; correct?

11 A. Correct.

12 Q. Are you involved with the payments on the
13 contract as it progresses?

14 A. No, I'm not.

15 Q. No? Okay.

16 But you do know that it was completed, and JPL
17 paid the contract price; right?

18 A. I'm not -- I'm not made aware. When the
19 subcontract is fully paid, the only time I'm involved is
11:26AM 20 when it expires, meaning the effective dates are -- has
21 passed and it's my job to close the subcontract at that
22 point, and that's when I'll know if it's fully been
23 paid.

24 Q. Okay. Did anybody talk to you about this case
25 before you testified?

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1 A. No.

2 Q. No? Nobody told you you were going -- you were
3 going to be testifying as a witness?

4 A. Oh, no, in that sense, JPL's general counsel
5 reached out to me to let me know.

6 Q. General counsel for NASA?

7 A. For Jet Propulsion Laboratory.

8 Q. JPL. I'm sorry.

9 Did they tell you what the subject matter would
11:27AM 10 be that you were going to testify about?

11 A. They told me it was about the subcontract that
12 I had executed with the University of Tennessee,
13 Knoxville.

14 Q. Okay. So you're familiar with the NASA
15 restriction.

16 MR. LOMONACO: Could we see -- I believe it's
17 8-N, page 20. Oh. I'm sorry. 8-AA.

18 BY MR. LOMONACO:

19 Q. Okay. We talked about this a little bit. All
11:27AM 20 right. You talked about this a little bit ago with the
21 other gentleman. Can you hear me okay?

22 A. Yes, I can hear you.

23 Q. Okay. Your picture just -- there it is
24 (indicating).

25 So this is the NASA restriction that is in the

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1 general provisions; correct?

2 A. Yes, it is.

3 Q. Okay. And there is a definition about China or
4 a Chinese-owned company means the People's Republic of
5 China and any company owned by the People's Republic of
6 China or any company incorporated under the laws of the
7 People's Republic of China.

8 A. Uh-huh.

9 Q. Now, that section there does not mention
10 anybody in particular; right? Like a human being or a
11 person.

12 A. No, it does not.

13 Q. And it also says that NASA is
14 restricted -- next paragraph -- from contracting to
15 participate, collaborate, coordinate bilaterally, in any
16 way with China or a Chinese-owned company. There is
17 that language again; right?

18 A. Yes.

19 Q. And that's not talking about any particular
20 person. It's talking about China or Chinese-owned
21 company as it's written; correct?

22 A. Correct.

23 Q. And when you look at the contract or the
24 proposal, it's the proposer that is responsible for
25 ensuring the compliance with the NASA restriction;

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1 correct?

2 A. On the proposal side?

3 Q. Well, I guess on the contract in general.

4 A. So, for the contract, the principal
5 investigator doesn't sign the contract, the university
6 does.

7 Q. Okay. So if you go down to Section D, the
8 subcontractor would be the university; is that right?

9 A. Yes.

11:29AM 10 Q. Now, the prosecutor has asked you if you had
11 learned that the personal -- or the investigator worked
12 for China, I think is the words that he used, or
13 something to that effect; had a job in China. Do you
14 recall the questioning?

15 A. I believe so.

16 Q. That you would, you know, alert your -- the
17 people that you work with if you learned that. But
18 nowhere in the proposal or the contract is there any
19 question about the principal investigator and his
11:30AM 20 affiliations, collaborations, or part-time jobs, is
21 there?

22 A. No.

23 Q. And if there is nothing in this proposal,
24 again, it would be the responsibility, if that is a
25 violation -- and I'm not saying it is, but if it is a

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1 violation, it would be the responsibility of the
2 university to ferret that out before they made the
3 proposal; wouldn't you agree?

4 A. I mean, I don't think I would be the subject
5 matter expert in saying that, but I don't know how the
6 universities handle who and how they employ someone,
7 but --

8 Q. I'm sorry; you don't know how the university
9 would what?

11:31AM 10 A. I'm not really privy to knowing how the
11 university -- how extensive that they look into
12 someone's background when they're hiring their
13 professors and so forth, and so I'm not really sure how
14 to answer that question.

15 Q. Okay. It's a little confusing, isn't it?

16 A. Yes.

17 Q. Now, in this particular contract --
18 subcontract, is there any indication that NASA or JPL
19 collaborated with China or a Chinese corporation?

11:32AM 20 A. No.

21 Q. Is there any agreement upfront or in the
22 contract that NASA would send money to China or a
23 Chinese corporation?

24 A. No.

25 Q. And, in fact, all the money in this JPL

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1 subcontract that was paid went to the University of
2 Tennessee; correct?

3 A. Yes.

4 Q. And you indicated also that if -- if you
5 thought there was a problem with the -- with this issue,
6 one of the people you would alert would be the technical
7 manager; is that correct?

8 A. Yes.

9 Q. And who is the technical manager in this case?

11:33AM 10 A. That is Dr. Yoseph Bar-Cohen.

11 Q. Okay.

12 MR. LOMONACO: Excuse me one moment.

13 THE WITNESS: Uh-huh.

14 BY MR. LOMONACO:

15 Q. Did you discuss this contract with Yoseph
16 Bar-Cohen at any time?

17 A. Only at the very beginning when he reached out
18 to me when he found out I was the subcontracts manager
19 who was handling this university. That's as far as our
11:33AM 20 communication went. It's just an exchange of what he
21 was looking for, the paperwork that I needed, the
22 justification that I needed in order to show that only
23 the university's PI is the only one capable to do the
24 work that I'm describing.

25 Q. So he indicated to you -- I'm sorry. Did I cut

CROSS-EXAMINATION - KATHRYN MANZANARES

1 you off?

2 A. No, I'm just saying that's as far as our
3 communication goes.

4 Q. Okay. So you did have some communications with
5 him, and he indicated to you that the PI at the
6 University of Tennessee was -- was really qualified for
7 this type of work; right?

8 A. Yes.

9 Q. And, of course, you all want to try to get the
10 most qualified you can get; correct?

11 A. That's correct.

12 Q. And did Mr. Bar-Cohen say anything to you about
13 any connections or collaborations that the PI had with
14 China?

15 A. No.

16 MR. LOMONACO: Okay. All right. Well, thank
17 you very much.

18 Oh, wait a minute. They keep telling me to ask
19 another question. Excuse me one second.

11:35AM 20 (A discussion was had off the record.)

21 BY MR. LOMONACO:

22 Q. Yeah, I guess in case I didn't ask this, the
23 subcontractor in this case is the University of
24 Tennessee; correct?

25 A. Yes, it is.

REDIRECT EXAMINATION - KATHRYN MANZANARES

1 MR. LOMONACO: All right. Thank you, ma'am.
2 Appreciate your time.

3 THE COURT: Thank you.

4 Redirect?

5 MR. ARROWOOD: Just briefly, Your Honor.

6 REDIRECT EXAMINATION

7 BY MR. ARROWOOD:

8 Q. I believe on cross-examination defense counsel
9 asked you about whether you met with anyone to talk
11:35AM 10 about your testimony today. I know it may be difficult
11 for you to see, but is this the first time you and I
12 have spoken?

13 A. No.

14 Q. So we've spoken before?

15 A. Yes.

16 Q. Do you know about how many times?

17 A. I think twice.

18 Q. All right. So during those conversations, did
19 we talk about some of the topics that we'd like you to
11:36AM 20 testify about during this trial?

21 A. Yes.

22 Q. Do you expect principal investigators to
23 provide fulsome and truthful information in their
24 submissions?

25 A. Yes, I do.

RECROSS-EXAMINATION - KATHRYN MANZANARES

1 Q. I'd like to show you again Government's Exhibit
2 8-AA.

3 MR. ARROWOOD: Would you please go back down to
4 page 20. Scroll down, please.

5 BY MR. ARROWOOD:

6 Q. Okay. This is what we've been looking at
7 previously. Based on your experience as a subcontractor
8 manager and your knowledge of the terms and conditions
9 that apply to these types of contracts, does the China
10 funding restriction apply to universities in China?

11 A. Yes.

12 MR. ARROWOOD: No further questions, Your
13 Honor.

14 THE COURT: Thank you.

15 Any cross?

16 MR. LOMONACO: Can you leave that up, please?
17 Just briefly, Your Honor.

18 MR. ARROWOOD: 8-AA.

19 THE COURT: Recross, I should say.

11:37AM 20 MR. LOMONACO: Yes. Thank you.

21 RECROSS-EXAMINATION

22 BY MR. LOMONACO:

23 Q. And you were asked the question of whether the
24 NASA restriction applies to Chinese universities. That
25 doesn't say -- there's nothing in this printed form on

RECROSS-EXAMINATION - KATHRYN MANZANARES

1 the contract that says that, does it?

2 A. No.

3 Q. And that is an interpretation that NASA has
4 placed on this document; correct?

5 A. Yes.

6 Q. Do you know where else it is officially placed
7 or who -- anybody else place that interpretation other
8 than NASA?

9 A. I'm -- I'm not sure if I understand your
11:38AM 10 question.

11 Q. I'm sorry. Let me rephrase that.

12 Do you know of any other agency, governmental
13 body, law in existence, other than what NASA says that
14 it is, Chinese universities are included?

15 A. No.

16 MR. LOMONACO: Okay. Thank you.

17 THE COURT: All right. Thank you. This
18 witness is excused. Thank you for your appearance this
19 morning.

11:39AM 20 Does that conclude the morning testimony until
21 the next video witness?

22 MR. MC KENZIE: Your Honor, I was told that we
23 do have a live witness here. Last I knew, she was
24 walking through security. So she should be here
25 momentarily, and I expect -- she's here. If you would

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1 like -- I expect it to be short, if you want to try to
2 call her.

3 THE COURT: Yeah, let's go ahead and do that.

4 MR. MC KENZIE: All right. Your Honor, the
5 government calls Tara Halstead.

6 (The witness was thereupon duly sworn.)

7 THE COURTROOM DEPUTY: Have a seat, please. Go
8 ahead and scoot in.

9 Will you state and spell your name for the
10 record.

11 THE WITNESS: My name is Tara Halstead,
12 T-a-r-a, H-a-l-s-t-e-a-d.

13 THE COURTROOM DEPUTY: Thank you.

14 MR. MC KENZIE: Your Honor, may I inquire?

15 THE COURT: Yes.

16 **TARA HALSTEAD**,

17 having been first duly sworn, was examined and testified
18 as follows:

19 DIRECT EXAMINATION

11:40AM 20 BY MR. MC KENZIE:

21 Q. Good morning, Ms. Halstead. Thank you for
22 coming this morning.

23 Will you quickly tell the jury where you were
24 this morning.

25 A. Yes. I was on St. Pete Beach, but I flew in

DIRECT EXAMINATION - TARA HALSTEAD

1 this morning to be here.

2 Q. I appreciate that.

3 By whom are you -- by whom are you employed?

4 A. I'm employed by the University of Tennessee.

5 Q. What is your current position?

6 A. I'm the business manager for the Department of
7 Theater and the Clarence Brown Theater.

8 Q. How long have you been the business manager at
9 the theater?

11:41AM 10 A. Since April of 2019.

11 Q. Prior to that position, what job title did you
12 hold?

13 A. I was the senior contract specialist for the
14 Office of Sponsored Programs at the university.

15 Q. University of Tennessee here in Knoxville?

16 A. Yes, that's correct.

17 MR. LOMONACO: Excuse me. May I ask you move
18 the microphone a little bit closer to you.

19 THE WITNESS: This one (indicating)?

11:41AM 20 THE COURT: Either or both.

21 MR. LOMONACO: Thank you.

22 BY MR. MC KENZIE:

23 Q. Will you please describe to the jury what
24 your -- what your duties and responsibilities were as a
25 contract specialist.

DIRECT EXAMINATION - TARA HALSTEAD

1 A. Sure. After a sponsoring agency -- a federal
2 agency had awarded a grant to the University of
3 Tennessee, a contract would be issued by that sponsoring
4 agency that would need to be reviewed. Those terms and
5 conditions were reviewed by me, and if they were
6 acceptable to the university, then it would go to our
7 director, Jean Mercer, for signature, and then it would
8 be returned to the sponsoring agency for their signature
9 so that a fully-executed contract would exist for the
10 grant duration.

11 Q. Will you please explain to the jury, walk the
12 jury through your educational background from the time
13 you graduated high school until you graduated whatever
14 the highest degree you earned was.

15 A. Sure. I attended Auburn University where I
16 received a bachelor's degree in zoology. Then I
17 attended the University of Miami Law School where I got
18 a juris doctor degree. And then there was a little gap
19 there. And I took classes from Emmanuel College in
20 Boston for a master's degree in management and
21 specializing in research administration.

22 Q. Directing your attention back now to your
23 duties as a contract specialist for the University of
24 Tennessee. What, if any, training did you receive on
25 how to review those contracts once you were hired by the

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1 University of Tennessee?

2 A. Sure. When I was hired, I was mentored by
3 contract specialists who had been in that department for
4 a while about the procedures for reviewing contract
5 terms and conditions, the special attention to ones of
6 concern to the university, and then any that would be of
7 concern, for example, period of performance or amount of
8 the grant, or who was allowed to work on the grant, as
9 far as how many graduate students were allowed to work
11:44AM 10 on the grant and those statements of work for that grant
11 to make sure it matched with the principal
12 investigators, what they thought the grant would be for.

13 Q. In your particular function as a contract
14 specialist, were you involved in the proposal aspect of
15 receiving sponsored funding?

16 A. Normally I am not involved -- I was not
17 involved with the preparation of the proposal or the
18 submittal of the proposal except as an advising person.
19 If any proposal people had a question or if the
11:45AM 20 department which we were submitting a proposal for had a
21 question and they just wanted to know about a term or
22 condition, they may ask me.

23 But in most instances, I did not see the
24 proposal until after the award was issued by the agency.

25 Q. What about after contracts were signed and work

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1 began; what, if any, role did you have during that part
2 of the process?

3 A. The only time I would be involved after the
4 process started would be if the principal investigator
5 needed an extension on the period of performance, a
6 change in the statement of work, or if there was
7 something that the principal investigator needed to do
8 to change the personnel on the grant, then I would work
9 with the agency and the university to request proposed
11:46AM 10 changes and then I would negotiate an amendment to the
11 contract.

12 Q. I'd like to direct your attention back to kind
13 of the overview that we were giving the jury of what you
14 do. After you've reviewed the terms and conditions of
15 the contract and you're satisfied, who, if anyone, at
16 the university did you provide the contracts to for
17 signature?

18 A. Part of the procedure with the Office of
19 Sponsored Program (sic), when a contract was awarded to
11:46AM 20 the university, it would come into the department
21 of -- I'm sorry -- excuse me -- the Office of Sponsored
22 Programs. The general email would then go out from the
23 general OSP. That's the abbreviation for Office of
24 Sponsored Programs. The general OSP email would go out
25 to the department that was receiving the grant, the

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1 principal investigator, and then it would also copy the
2 award administrator, and that would be me, as well as
3 our director for the Office of Sponsored Programs, Jean
4 Mercer.

5 Q. Who had the ultimate signing authority within
6 the Office of Sponsored Programs to sign contracts?

7 A. The director, Jean Mercer.

8 Q. I ask that the witness be shown what is already
9 in evidence as 8-N.

11:47AM 10 I'd like to direct your attention to in or
11 about October 2016, and show you what is in evidence as
12 8-N.

13 MR. MC KENZIE: Could we please scroll down.
14 And we can go ahead and stop right there (indicating).

15 BY MR. MC KENZIE:

16 Q. What type of -- do you recognize this document?
17 A. It's been a long time since I've seen one of
18 these, but, yes, it's a -- one of our standard type of
19 contracts that we would receive in the Office of
11:48AM 20 Sponsored Programs.

21 Q. Under Points of Contact where it says
22 Administrative, whose name is listed?

23 A. That's my name.

24 Q. And looking at the bottom right portion of
25 this -- of this document, who, if anyone, signed this

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1 document?

2 A. Jean Mercer.

3 MR. MC KENZIE: Could we please scroll up?

4 BY MR. MC KENZIE:

5 Q. Who is listed as the subcontractor of this
6 agreement?

7 A. The University of Tennessee.

8 Q. Could you please read the subcontract number in
9 the top right-hand corner?

11:48AM 10 A. 1560728.

11 Q. As the administrator on this contract, did you
12 review the terms and conditions of this subcontract?

13 A. I did.

14 Q. After you reviewed the terms and conditions,
15 what, if anything, did you do to ensure that the
16 University of Tennessee was in compliance with those
17 terms and conditions?

18 A. On contracts like this, if I had any questions
19 or concerns, I would talk to our expert control officer,
11:49AM 20 Darren Malkemus, who I don't think he's the expert
control officer at this time, but he was when I was
21 there. But this was a very standard contract we got
22 from the Jet Propulsion Lab.

24 Q. After you reviewed the terms and conditions,
25 who, if anyone, did you send it to for signature?

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1 A. Jean Mercer, who was the director of OSP.

2 Q. At the time that you sent this contract to Jean
3 Mercer, what, if any, reason did you have to believe
4 that the university was not in compliance with the terms
5 and conditions of this contract?

6 A. I didn't have any concerns about this contract
7 or think of any possible problems with it.

8 MR. MC KENZIE: Your Honor, I ask that the
9 witness now be shown 8-M, which I believe -- which is
11:50AM 10 already in evidence.

11 Can we zoom in here?

12 BY MR. MC KENZIE:

13 Q. Do you recognize this document?

14 A. I do.

15 Q. What is that?

16 A. It is an email. It's a standard procedure once
17 the contract has been signed by the university's
18 official signatory, it is then forwarded to the
19 sponsoring agency for their signature.

11:51AM 20 Q. Did you send this email?

21 A. I did.

22 Q. Could you please -- you may have mentioned it,
23 but will you please tell the jury what's attached to
24 this email.

25 A. It is the subcontract with the University of

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1 Tennessee's authorized signature.

2 Q. Why did you send this email?

3 A. It's necessary for the sponsor to countersign
4 it in order for there to be a fully-executed agreement
5 between the parties.

6 Q. In what state were you when you sent this
7 email?

8 A. Tennessee.

9 Q. If at the time you sent this email you had
10 known that the principal investigator of the contract
11 had failed to disclose employment at another university
12 in China, would you have sent this contract to JPL?

13 A. No.

14 MR. MC KENZIE: Thank you, Your Honor. No
15 further questions.

16 THE COURT: Thank you.

17 Cross-examination?

18 MR. LOMONACO: Thank you, Your Honor.

19 CROSS-EXAMINATION

11:52AM 20 BY MR. LOMONACO:

21 Q. Hello, Ms. Halstead.

22 A. Hello.

23 Q. Ms. Halstead, if at -- at any time during 2019,
24 did you attend any meetings with -- of FBI and DOE and
25 NASA special agents?

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1 A. I don't recall. In 2019, I changed
2 departments.

3 Q. Okay.

4 A. If it was before April 2019, I may have, but I
5 don't recall.

6 Q. What about a fraud awareness meeting in 2018?

7 A. Yes, I did attend fraud awareness meetings in
8 2018.

9 Q. Okay. And were any of these individuals
10 (indicating) -- do you recognize any of these people?
11 Were they there?

12 A. I don't recognize anybody.

13 Q. Okay. Let's talk about the terms and
14 conditions that the contract -- or the subcontract from
15 JPL had.

16 You mentioned you were a specialist and you had
17 a specialist teach you about the contracts and how to
18 review them; is that --

19 A. Yes, that's correct.

20 11:53AM Q. And that was your job to review them to make
21 sure they're in compliance?

22 A. Right. The university can only accept certain
23 terms and conditions in contracts. So we would
24 review -- you know, the contract specialists in OSP
25 would review the terms of the contracts to make sure

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1 they were ones the university could accept.

2 Q. Did the mentor tell you that you should
3 investigate whether the primary investigator or the
4 principal investigator, being Professor Hu in this case,
5 you should ask him whether he is in compliance
6 with -- excuse me -- you should ask him whether he has
7 any affiliations or collaborations with China?

8 A. No, that was not required of the job at the
9 time.

11:54AM 10 Q. Not required.

11 Was it because at the time you and everybody
12 else believed it didn't apply to faculty anyway?

13 MR. MC KENZIE: Objection, Your Honor,
14 speculating as to why the policies of the university
15 were the way they were at the time.

16 MR. LOMONACO: Let me ask it a different way,
17 Your Honor.

18 BY MR. LOMONACO:

19 Q. Do you recall in the assurance letters that
20 there was a statement that said we don't believe it
21 applies to faculty or UT students; do you remember that?

22 A. When I first started, I know there was
23 discussion about that, but I also worked with Darren
24 Malkemus, who was the export control officer at the
25 time, and I always referred to him about the PIs working

CROSS-EXAMINATION - TARA HALSTEAD

1 on projects, and it just was a default that I would
2 check with him to say --

3 Q. Okay.

4 A. -- this is a contract; these are the PIs.

5 Q. And who was that person?

6 A. Darren Malkemus.

7 Q. Darren who?

8 A. Malkemus.

9 Q. Malkemus. Was that the one that was your
11:55AM 10 mentor or -- at all or --

11 A. He was the export control officer at the time.

12 Q. So he was the specialist who taught you about
13 the grants?

14 A. No, he was somebody I would seek advice for
15 when we dealt with any issues related to export control.
16 Even though this wasn't an export control issue, it was
17 still a topic that I would discuss with him.

18 Q. Okay. Did you have any discussions with him
19 about asking the PIs if they were affiliated or they had
11:56AM 20 associations with China?

21 A. We discussed the assurance clause, but I
22 usually discussed it with him along with other export
23 control issues related to contracts. And if we were
24 satisfied with what we knew at the time, we proceeded
25 with having the contract signed.

CROSS-EXAMINATION - TARA HALSTEAD

1 Q. Okay. So I guess the answer to my question
2 would be then, no, you didn't discuss with him whether
3 you or he or anybody should ask the PI if they had any
4 affiliations or collaborations with China; right? You
5 didn't have that discussion with him?

6 A. I may have. I don't recall. I just -- I
7 remember the procedure when contracts would come in, I
8 would talk to Darren, and then we would move forward or
9 hold it until questions were answered.

11:57AM 10 Q. Okay. Are you familiar with any questions that
11 UT or anybody at UT would ask the PI about
12 collaborations or employment with China?

13 A. From my position, that -- I don't know what the
14 departments asked from PIs about their affiliations.

15 Q. So you don't know of any?

16 A. I don't know.

17 Q. Okay. Now, you indicate now that it would be a
18 problem if a PI had collaboration or employment with
19 China; right?

11:57AM 20 A. It would be a concern that would need to be
21 investigated, yes.

22 Q. Okay. Well, can you see how big of a concern
23 it is in this particular case?

24 A. If I thought it was a concern, sir, I would
25 have brought it up. At the time, there was no concern.

CROSS-EXAMINATION - TARA HALSTEAD

1 Q. If you thought it was a concern. So you
2 weren't concerned about the NASA restriction at the
3 time; correct?

4 A. Because I did not have reason to believe that
5 this PI would be -- I had no indication to think that it
6 would -- this clause would be a problem with this PI
7 working on this project.

8 Q. Would it be fair to say that you had no
9 concerns at the time because you did not think a faculty
11:58AM 10 member at UT would be subject to the NASA restriction as
they had in writing at the time?

12 A. When this contract came through, I did not have
any concerns that Dr. Hu was someone who required
further questioning from a post-awards specialist.

15 Q. And the question I have then is: Did you have
16 any concerns about the NASA restriction applying to
17 Professor Hu?

18 A. At the time that I received the award, I did
not.

11:59AM 20 Q. When did you decide that it was a concern?

21 A. Well, I did not have a concern with this
22 instance because I -- I didn't have any indicators that
23 it would be a concern after discussion with other people
24 in the Office of Sponsored Programs.

25 Q. So you did have a concern after discussions

CROSS-EXAMINATION - TARA HALSTEAD

1 with other people; is that what you said?

2 A. I did not.

3 Q. Did not?

4 A. Did not have a concern.

5 Q. Okay.

6 A. Uh-huh.

7 Q. Did you even think that the NASA restriction
8 that says the proposer assures NASA that NASA will not
9 collaborate bilaterally with China or a Chinese
12:00PM 10 corporation, did you have any concern that that even
11 applied to anybody that may have an affiliation with
12 China that worked as a PI in your office?

13 MR. MC KENZIE: Objection, Your Honor.

14 THE COURT: Go ahead.

15 MR. MC KENZIE: Couple grounds: One, compound.
16 I lost track of that question. But also relevance.
17 And, third, asked and answered. He's asked some version
18 of this question like ten times.

19 THE COURT: Let's start with the first one.

12:01PM 20 The question is a little confusing. Why don't you ask
21 it again.

22 MR. LOMONACO: It was a little long, wasn't it?
23 And I was trying to just --

24 THE COURT: You may have already inquired into
25 this, but go ahead. If you want to ask again, go ahead.

CROSS-EXAMINATION - TARA HALSTEAD

1 But if not, we'll move on.

2 BY MR. LOMONACO:

3 Q. Okay. Are you aware that the conflict of
4 interest form during this period of time, Professor Hu's
5 conflict of interest form, was not reviewed by UT?

6 A. I was not aware of that.

7 MR. LOMONACO: One moment, please.

8 BY MR. LOMONACO:

9 Q. Did you review the proposal for the JPL
10 subcontract grants?

11 A. No, I did not.

12 Q. Are you aware of the assurance letter that UT
13 sometimes attaches to the proposals?

14 A. I am aware of it and I know it is a part of the
15 proposal submittal process.

16 Q. So it's supposed to be attached to the
17 proposal, UT policy, or part of their proposal process?

18 A. If it's a requirement from the Jet Propulsion
19 Lab or NASA, it would be attached. But it just depends
20 what the proposal guidelines say. I don't know if they
21 said it because I didn't submit the proposal.

22 Q. When did you leave UT? I'm sorry.

23 A. I'm still with UT. I left the Office of
24 Sponsored Programs in April of 2019.

25 MR. LOMONACO: May I have a moment, Your Honor?

CROSS-EXAMINATION - TARA HALSTEAD

1 (A discussion was had off the record.)

2 BY MR. LOMONACO:

3 Q. Okay. I'm going to show you a slide out of the
4 training materials from UT.

5 A. Okay.

6 MR. LOMONACO: Your Honor, I think it's already
7 been entered as an exhibit, Exhibit 14. I'd refer to
8 the portion of the training manual for UT.

9 Do you want to go to the front page to make
12:04PM 10 sure we're in the same document?

11 BY MR. LOMONACO:

12 Q. Do you see there Proposal and Budget
13 Development, Office of Sponsored Programs? Do you
14 recognize that document?

15 A. It's been a while, but it looks like a proposal
16 training PowerPoint presentation.

17 MR. LOMONACO: Okay. Let's go down a page or
18 two.

19 BY MR. LOMONACO:

12:05PM 20 Q. Just -- so it talks about budgets and training
21 PowerPoints and so on. And this includes more than just
22 NASA as a sponsor. It talks about proposals for a lot
23 of different sponsors.

24 Are you aware of any of the other sponsor
25 requirements that UT tries to get grant money from?

CROSS-EXAMINATION - TARA HALSTEAD

1 A. Back when I was in OSP, if a principal
2 investigator was submitting to a grant, the grant
3 guidelines would be examined and the proposal would be
4 submitted in accordance with those guidelines.

5 Q. Right. I'm asking if you're aware of any other
6 sponsor's guidelines.

7 A. All the federal agencies have guidelines for
8 their proposal submittals.

9 Q. I'm sorry; I didn't hear that last sentence.

12:06PM 10 A. All the federal agencies have guidelines for
11 their proposal submittals.

12 Q. Yes. Are you aware of them? Do you know any
13 of them?

14 A. Not anymore because I don't do that anymore.

15 Q. Okay. Are you aware that NSF is one of the
16 sponsors?

17 A. Yes, I'm aware NSF is a sponsor.

18 Q. What does that stand for?

19 A. I think it's the National Science Foundation.

12:06PM 20 Q. Yes, I think so, too.

21 Are you aware that their proposal or their
22 contract asks for the principal investigators to
23 disclose any affiliations or collaborations with outside
24 interests within the last 48 months; do you recall that
25 one?

CROSS-EXAMINATION - TARA HALSTEAD

1 A. No, I do not.

2 Q. That would make sense in this JPL contract,
3 wouldn't it? Let -- excuse me.

4 THE COURT: Ask again.

5 MR. LOMONACO: -- me ask again.

6 BY MR. LOMONACO:

7 Q. If the JPL contract or UT had a similar
8 requirement that Professor Hu expose and disclose any
9 affiliations or collaborations he had with China or a
12:07PM 10 Chinese company or Chinese university, would that make
11 it more -- make your job or UT's job easier to determine
12 whether he qualified for a NASA grant or not?

13 MR. MC KENZIE: Objection, Your Honor.

14 Relevance and speculation as to whether it would make
15 her job easier.

16 THE COURT: Well, I'll let her answer to the
17 extent she can. Go ahead.

18 BY THE WITNESS:

19 A. I mean --

12:08PM 20 BY MR. LOMONACO:

21 Q. It makes sense, doesn't it?

22 A. I'm not the federal agency. So I can't say,
23 you know, why some have different proposal guidelines
24 versus others.

25 Q. Well, do you know why NASA has a guideline

CROSS-EXAMINATION - TARA HALSTEAD

1 saying not collaborate with China or Chinese company
2 or -- I mean, it has that guideline; right?

3 A. It did at the time I was there, yes.

4 Q. And wouldn't it make sense for UT to ask their
5 principal investigators if they're affiliated or
6 collaborating with China like NSF does?

7 Let's just go to the next one. I'm sorry. I
8 won't ask you to answer that question.

9 Let's go to this part of NASA. And if you'll
12:09PM 10 look here, do you see under China Assurance, it says,
11 (as read), "UT always includes an amended NASA China
12 Assurance document as the final page of an application.
13 The language indicates that we do not view our faculty,
14 staff and students to be entities of China."

15 Does that refresh your memory on the assurance
16 letter?

17 A. Yeah, I mean, it looks familiar, but, again,
18 that was several years ago.

19 Q. Okay. And you're not aware whether one was
12:09PM 20 included in this grant or not, are you?

21 A. No, I wouldn't have submitted the proposal; so
22 I don't know if it was attached in the proposal at the
23 time.

24 MR. LOMONACO: Thank you. Hope you can get
25 back to where you were at before you got here.

EXAMINATION -

1 THE COURT: All right. Thank you.

2 Any redirect?

3 MR. MC KENZIE: Very briefly, Your Honor.

4 REDIRECT EXAMINATION

5 BY MR. MC KENZIE:

6 Q. As a contract specialist, did you submit
7 proposals?

8 A. No.

9 Q. Were you responsible for knowing what should or
10 should not have been included in a proposal?

11 A. No, that was not my responsibility.

12 Q. Was it your --

13 MR. MC KENZIE: Your Honor, I have no further
14 questions.

15 THE COURT: All right. Any recross? No? All
16 right. Thank you. Then the witness can be excused.

17 Hold on just a moment. We're going to let our
18 jury go first. We'll break for a lunch recess until
19 1:30. We'll just see the jury back here then.

12:10PM 20 (Jurors excused from the courtroom.)

21 THE COURTROOM DEPUTY: This honorable court
22 stands in recess until 1:30.

23 (A luncheon recess was taken at 12:10 p.m.)

24

25

1 AFTERNOON SESSION

2 (P.M.)

3 THE COURTROOM DEPUTY: All rise.

4 THE COURT: Thank you, everyone. We'll bring
5 our jury back in for the next witness, which is a video
6 witness. So I think we're ready to go.

7 (Whereupon the following report of
8 proceedings was had within the presence
9 and hearing of the jury:)

01:37PM 10 THE COURT: Everyone may be seated.

11 The previous witness was on the JERS monitors
12 as well; is that correct? The previous witness from
13 this morning that was a video witness. I don't know if
14 the current witness is showing on your screens now or
15 not. Not on mine either. But I notice that it is
16 showing on Ms. Norwood's screen.

17 All right. I think we're ready to go then.

18 The courtroom deputy will swear in the next witness.

19 (The witness was thereupon duly sworn.)

01:37PM 20 THE COURTROOM DEPUTY: Would you please state
21 and spell your name for the record.

22 THE WITNESS: Yoseph Bar-Cohen. Y-o-s-e-p-h.
23 Bar-Cohen is B-a-r-dash-C-o-h-e-n.

24 THE COURTROOM DEPUTY: Thank you.

25 THE COURT: Can we turn up the volume? That

DIRECT EXAMINATION - YOSEPH BAR-COHEN

1 may help as well.

2 Mr. Bar-Cohen, if you could just make sure the
3 microphone that's on your computer or video, if you'll
4 just be kind of close to it, that will be helpful.

5 Thank you, sir.

6 THE WITNESS: Okay.

7 THE COURT: That's much better.

8 Go ahead, Mr. Arrowood.

9 MR. ARROWOOD: Thank you, Your Honor.

01:38PM 10 YOSEPH BAR-COHEN,

11 having been first duly sworn, was examined and testified
12 as follows:

13 DIRECT EXAMINATION

14 BY MR. ARROWOOD:

15 Q. Good morning, Dr. Bar-Cohen.

16 A. Good morning.

17 Q. Would you please tell the jury where you work.

18 A. I work at Jet Propulsion Lab.

19 Q. And where is the Jet -- I'm sorry.

01:39PM 20 A. Short, JPL.

21 Q. And where is the Jet Propulsion Laboratory
22 located?

23 A. In Pasadena, California.

24 Q. And how long have you worked at JPL?

25 A. 30 years.

DIRECT EXAMINATION - YOSEPH BAR-COHEN

1 Q. What is your current position at JPL?

2 THE COURT REPORTER: I'm sorry. I did not
3 understand the witness. Can you repeat your answer,
4 please?

5 BY THE WITNESS:

6 A. Group supervisor.

7 BY MR. ARROWOOD:

8 Q. Dr. Bar-Cohen, would you please tell the jury,
9 what are the duties of a group supervisor?

01:39PM 10 A. I am managing the group, monitor the programs
11 that we are responsible for, and seek funding to make
12 sure that they have a job.

13 Q. Would you please describe your educational
14 background for the jury.

15 A. I have a Ph.D. in physics.

16 Q. As a group supervisor at JPL, are you involved
17 in contracts?

18 A. Yes.

19 Q. Would you please describe generally what your
01:40PM 20 role is in the contracting process at JPL.

21 A. I am -- I have only the technical
22 responsibility, like proposals, and on the other end, I
23 also seek support to our efforts for procurement. But
24 the procurement is done by the department that is the
25 procuring department.

DIRECT EXAMINATION - JOSEPH BAR-COHEN

1 Q. During the course of your job as a group
2 supervisor at JPL and specifically related to proposals,
3 did you come into contact with a University of Tennessee
4 professor named Anming Hu?

5 A. Yes.

6 Q. Do you recall when you first interacted with
7 Dr. Hu?

8 A. I was looking for -- acknowledging to help us
9 with the mission, and the work that we had been doing
01:42PM 10 was using high-temperature and high-powered mechanisms,
11 and I was looking for no temperature capability.

12 I contacted individuals at JPL to see who could
13 help us. They suggested a professor in Tennessee called
14 Professor Babu, and he referred me to Professor Hu.

15 (Government's Exhibit 8-BB was marked for
16 identification.)

17 BY MR. ARROWOOD:

18 Q. Okay. Thank you.

19 And I'd like to show you some documents. I'd
01:42PM 20 like to show you what's been marked as Government's
21 Exhibit 8-BB.

22 Dr. Bar-Cohen, can you see this document on
23 your screen?

24 A. Yes.

25 MR. ARROWOOD: Okay. Will you please scroll

DIRECT EXAMINATION - YOSEPH BAR-COHEN

1 down a little bit. One more. You can stop there
2 (indicating).

3 BY MR. ARROWOOD:

4 Q. Dr. Bar-Cohen, do you recognize this document?

5 A. I think so.

6 Q. If you would just please take a moment and read
7 this email. And we'll scroll up and you can see the
8 emails above it.

9 A. Okay. Okay. Okay.

01:45PM 10 Q. So, Dr. Bar-Cohen, could you describe in a
11 general sense to the jury what is going on in this email
12 exchange.

13 A. This is the process of presenting the proposal.
14 It involved technical side, description of capabilities,
15 and also proposed funding and details that would be
16 from the proposal.

17 Q. According to this document, who wrote this top
18 email that's on your screen?

19 A. Professor Hu.

01:45PM 20 Q. And I believe you're listed as a recipient. Do
21 you see that?

22 A. Yes.

23 Q. And then right next to your name is another
24 individual. Is that, I believe, Dr. Babu that you
25 mentioned earlier?

DIRECT EXAMINATION - YOSEPH BAR-COHEN

1 A. Yes.

2 Q. Okay. Do there appear to be a number of
3 attachments to this email? Do you see that,
4 Dr. Bar-Cohen?

5 A. Yes.

6 MR. ARROWOOD: Okay. Your Honor, government
7 moves to admit Government's BB -- or 8-BB.

8 THE COURT: So admitted.

9 (Government's Exhibit 8-BB was received into
01:46PM 10 evidence.)

11 BY MR. ARROWOOD:

12 Q. All right. Now I'd like to show you some of
13 those attachments.

14 (Government's Exhibit 8-CC was marked for
15 identification.)

16 MR. ARROWOOD: Will you please show the witness
17 Government's Exhibit 8-CC.

18 BY MR. ARROWOOD:

19 Q. Dr. Bar-Cohen, do you recognize this document?

01:47PM 20 A. I'm assuming so.

21 Q. What is the date on this document?

22 A. What is what?

23 Q. What is the date?

24 A. January 4.

25 Q. And who does this document appear to be from?

DIRECT EXAMINATION - YOSEPH BAR-COHEN

1 A. Professor Chen.

2 Q. And with what institution does this professor
3 appear to be employed?

4 A. Beijing Institute of Technology.

5 Q. If you would, Dr. Bar-Cohen, please just take a
6 moment and read that first paragraph. And when you're
7 finished, I'm going to ask you to describe for the jury,
8 if you can, what is going on in this first paragraph.

9 A. "I have a long-term collaboration on
01:48PM 10 nanomaterial synthesis and characterization with
11 Dr. Anming Hu at the University of Tennessee."

12 Q. Thank you.

13 MR. ARROWOOD: Will you please scroll.

14 BY MR. ARROWOOD:

15 Q. Dr. Bar-Cohen, how does this letter relate to
16 the proposal that was discussed in the email?

17 A. We generally require of commitment at the time.
18 Nowadays it's different process. And it was sent in as
19 part of this process.

01:49PM 20 However, it was me letting him know that we
21 cannot use anyone who is from China. And, you know, the
22 description of the facility, which is really supposed to
23 state what is the facility, I edited the description so
24 as not to include anyone from China.

25 Q. Thank you, Dr. Bar-Cohen. We're going to go

DIRECT EXAMINATION - JOSEPH BAR-COHEN

1 through some of those documents here in just a moment.

2 MR. ARROWOOD: Your Honor, at this time, move
3 to admit Government's Exhibit 8-CC.

4 THE COURT: So admitted.

5 (Government's Exhibit 8-CC was received into
6 evidence.)

7 (Government's Exhibit 8-DD was marked for
8 identification.)

9 BY MR. ARROWOOD:

01:49PM 10 Q. Now I'd like to show you another attachment to
11 that email. I'd like to show you Government's
12 Exhibit 8-DD.

13 Dr. Bar-Cohen, if you'll please take a look at
14 this document.

15 MR. ARROWOOD: Scroll down, please, just a
16 little bit.

17 BY MR. ARROWOOD:

18 Q. Okay. Dr. Bar-Cohen, I think in one of your
19 previous answers you mentioned the facilities. Is this
01:50PM 20 what you're talking about?

21 A. Yes, this was what was sent to me, and this is
22 what the last section is about that I have edited and
23 removed the inclusion of the facility in China and the
24 occupation of this individual.

25 Q. Okay. But at this time, at the time of the

DIRECT EXAMINATION - JOSEPH BAR-COHEN

1 first email that we saw that had this attachment, does
2 it indicate in that last paragraph whether a facility in
3 China would be utilized as part of this proposal?

4 A. It seems that he has access.

5 Q. All right. Thank you.

6 MR. ARROWOOD: Your Honor, I move to admit
7 Government's Exhibit 8-DD.

8 THE COURT: So admitted.

9 (Government's Exhibit 8-DD was received into
10 evidence.)

11 (Government's Exhibit 8-EE was marked for
12 identification.)

13 BY MR. ARROWOOD:

14 Q. Okay. All right. Dr. Bar-Cohen, now I'd like
15 to show you another email. I'd like to show you
16 Government's Exhibit 8-EE.

17 MR. ARROWOOD: Please scroll down. Okay. Stop
18 right there (indicating). Scroll back up a little bit.

19 Okay. Right there (indicating). Thank you.

01:52PM 20 BY MR. ARROWOOD:

21 Q. All right. Dr. Bar-Cohen, please just take a
22 moment and review this email.

23 A. Okay.

24 Q. Would you please read for the jury that short
25 paragraph that I've highlighted on the screen.

DIRECT EXAMINATION - YOSEPH BAR-COHEN

1 A. "I revised your facility description to the
2 following. I removed the mentioning of the use of
3 facility in China. We need to avoid mentioning since
4 NASA does not allow such formal collaboration."

5 Q. Why did you say this to Anming Hu?

6 A. Because, to the best of my knowledge at the
7 time, and now definitely, I knew that we are not allowed
8 to have any participation of -- from China.

9 Q. And how did you come to know about that
01:53PM 10 restriction?

11 A. I -- I had been aware of it and had another
12 experience about publishing a book. I published quite a
13 few books as an editor, as well as author, and in one,
14 two, three years before that, this incident, there was a
15 chapter that was written by a coauthor from China, and I
16 requested permission to include it, and I was told very
17 clearly that we could not have anyone from China being
18 listed as an author in any publication that I am
19 involved in. Then I asked can we at least acknowledge
01:54PM 20 thanking the individual for contributing, and the answer
21 is definitely no. So it was very clear to me that we
22 could not have anyone from China involved in either
23 publication, let alone making proposal or procurement.

24 Q. All right. Thank you.

25 And if you would, please, before we leave this

DIRECT EXAMINATION - YOSEPH BAR-COHEN

1 document, would you please indicate for the jury the
2 date and time that you sent this email.

3 A. Well, it was July -- or January 4, 2016, at
4 7:24 a.m.

5 Q. All right. Thank you.

6 MR. ARROWOOD: I'd like to admit Government's
7 Exhibit 8-EE.

8 THE COURT: So admitted.

9 (Government's Exhibit 8-EE was received into
10 evidence.)

11 (Government's Exhibit 8-GG was marked for
12 identification.)

13 BY MR. ARROWOOD:

14 Q. All right. Dr. Bar-Cohen, I'd like to show you
15 another email, Government's Exhibit 8-GG.

16 MR. ARROWOOD: Will you please scroll down.
17 Stop right there (indicating).

18 BY MR. ARROWOOD:

19 Q. All right. Dr. Bar-Cohen, I'd like you just to
01:55PM 20 take a quick look at this email, but first I'd like
21 you -- I'd like to direct your attention to the date and
22 time. Will you please read for the jury the date and
23 time of this email.

24 A. January 4, 2016, 8:00 a.m.

25 Q. Okay. If you would, please, would you read

DIRECT EXAMINATION - YOSEPH BAR-COHEN

1 what you wrote in this email to Dr. Hu.

2 A. "If you are preparing letters from China - I
3 cannot use them in the proposal."

4 Q. Thank you.

5 MR. ARROWOOD: Your Honor, I'd move to admit
6 Government's Exhibit 8-GG.

7 THE COURT: So admitted.

8 (Government's Exhibit 8-GG was received into
9 evidence.)

10 (Government's Exhibit 8-FF was marked for
11 identification.)

12 BY MR. ARROWOOD:

13 Q. Okay. Now I'd like to show you Government's
14 Exhibit 8-FF.

15 MR. ARROWOOD: You can leave it at the top
16 email, please.

17 BY MR. ARROWOOD:

18 Q. Dr. Bar-Cohen, if you would, please, just take
19 a quick look at this top email. Do you recognize this?

01:57PM 20 A. I think so.

21 Q. Does this appear to be an email from you to
22 Dr. Hu and Dr. Babu?

23 A. Yes.

24 Q. I'd like to direct your attention again to the
25 date and time of this email.

DIRECT EXAMINATION - JOSEPH BAR-COHEN

1 A. It is January 4, 2016, and the time 10:56 a.m.

2 Q. All right. Thank you.

3 If you would please read for the jury the
4 second sentence of this email which begins with the word
5 "as".

6 A. "As I mentioned, we cannot include any
7 collaboration with institutes in China."

8 MR. ARROWOOD: Your Honor, I move to admit
9 Government's Exhibit 8-FF.

01:58PM 10 THE COURT: FF? Thank you. Admitted.

11 (Government's Exhibit 8-FF was received into
12 evidence.)

13 (Government's Exhibit 8-HH was marked for
14 identification.)

15 BY MR. ARROWOOD:

16 Q. Okay. All right. Dr. Bar-Cohen, now I'd like
17 to show you Government's Exhibit 8-HH. As you can see,
18 most of these emails are from the January 2016 time
19 frame.

01:58PM 20 MR. ARROWOOD: Will you please scroll down.

21 Right there is good (indicating).

22 BY MR. ARROWOOD:

23 Q. Dr. Bar-Cohen, if you would, please, read your
24 email here (indicating), and I'm just going to ask you a
25 question about it.

DIRECT EXAMINATION - YOSEPH BAR-COHEN

1 A. "I am finalizing the proposal and noticed that
2 in the current commitment for you nothing has been
3 identified. Do you have any ongoing contract that we
4 should list?"

5 This is a different proposal. It is about
6 commitments because when we write proposals, NASA wants
7 to know that we are not overcommitted beyond the
8 capacity of work available to us to get work done.

9 Q. Thank you.

01:59PM 10 MR. ARROWOOD: If you would please scroll up.

11 BY MR. ARROWOOD:

12 Q. Does it appear based on this top email that
13 Dr. Hu responded to you?

14 A. (As read) "Currently I do not have any
15 commitments to external agencies but only internal
16 funds. I do not think we need to list the internal
17 commitments, right?"

18 If it's not, then there is nothing to do.

02:00PM 19 Q. Dr. Bar-Cohen, if Dr. Anming Hu had commitments
20 at this time, would you have expected him to include
21 them in this proposal?

22 A. Yeah. But that would have triggered me to stop
23 all the collaborations.

24 Q. Thank you.

25 MR. ARROWOOD: Your Honor, move to admit

DIRECT EXAMINATION - YOSEPH BAR-COHEN

1 Government's Exhibit 8-HH.

2 THE COURT: So admitted.

3 (Government's Exhibit 8-HH was received into
4 evidence.)

5 (Government's Exhibit 8-E was marked for
6 identification.)

7 BY MR. ARROWOOD:

8 Q. Okay. Dr. Bar-Cohen, I'd like to show you
9 Government's Exhibit 8-E.

02:00PM 10 MR. ARROWOOD: Scroll down just a little bit,
11 please. Okay. Stop there (indicating).

12 Scroll back up to the top.

13 BY MR. ARROWOOD:

14 Q. Dr. Bar-Cohen, this is a little bit of a
15 lengthy email. Do you recall this?

16 A. I think so.

17 Q. Does it appear that you received this email?

18 A. Yes.

19 Q. Do you know Mr. Drew Haswell?

02:01PM 20 A. Drew what?

21 Q. Do you know the person who sent this email? It
22 appears to be a Mr. Drew Haswell.

23 A. Yeah, it came from Drew.

24 MR. MC KENZIE: If you would please just scroll
25 down.

DIRECT EXAMINATION - YOSEPH BAR-COHEN

1 BY MR. MC KENZIE:

2 Q. If you would, Dr. Bar-Cohen, again, please just
3 take a look at this email, and then I'm going to ask you
4 to explain to the jury what your understanding of this
5 email is.

6 A. Well, this email, basically, it's providing me
7 with all the documents. It includes an attachment that
8 states that the university is abiding by the
9 China -- the NASA China restriction.

02:02PM 10 It's also telling me that this professor will
11 not be considered officially approved document, and
12 basically I'm going to read you from the part of the
13 proposal, (as read) "By submission of the proposal, the
14 proposal" -- "the proposer presents that the proposal is
15 not China or a Chinese-owned company, and that" -- and
16 highlighted in yellow -- "the proposer will not
17 participate, collaborate, or coordinate bilaterally with
18 China or any Chinese-owned company, at the prime
19 recipient or at any level or at any subrecipient level,
02:03PM 20 whether the bilateral involvement is funded or performed
21 under a no-exchange of funds arrangement."

22 Q. Thank you.

23 MR. ARROWOOD: Can you please scroll back up to
24 the top.
25

DIRECT EXAMINATION - YOSEPH BAR-COHEN

1 BY MR. ARROWOOD:

2 Q. I'd like to direct your attention to the top of
3 this email. Does this email appear to have any
4 attachments?

5 A. Yes, there are three.

6 Q. Okay. We're going to go through these fairly
7 quickly. I'd like to show you Government's Exhibit 8-F.

8 MR. ARROWOOD: Scroll down just a little bit.

9 Keep going. All right. Stop there (indicating).

02:04PM 10 BY MR. ARROWOOD:

11 Q. Dr. Bar-Cohen, do you recognize this document?

12 A. I think so, yeah.

13 Q. What is this? If you know.

14 A. This is a -- what the university is asking for
15 the funds and they are providing the details to the
16 budget and the justifications of what this expense is
17 for.

18 MR. ARROWOOD: Can you please go down to
19 page 2. Actually, I'm sorry. Scroll back up. This is
02:04PM 20 the second page. Right there (indicating). Thank you.

21 BY MR. ARROWOOD:

22 Q. All right. Dr. Bar-Cohen, if you would please
23 just take a moment and read to yourself the paragraph
24 that begins, "Anming Hu." And I'm going to ask you
25 whether or not -- I'm sorry. Dr. Bar-Cohen, you can

DIRECT EXAMINATION - YOSEPH BAR-COHEN

1 read it to yourself.

2 A. Oh, I'm sorry.

3 Q. That's okay.

4 A. Okay.

5 Q. Is there anywhere in this paragraph that Dr. Hu
6 indicates that he is employed at the Beijing University
7 of Technology?

8 A. No.

9 MR. ARROWOOD: Will you please scroll down to
02:05PM 10 page 9. Scroll down. Keep going. Keep going. Okay.
11 Stop. Go back up to the facilities.

12 BY MR. ARROWOOD:

13 Q. All right. Dr. Bar-Cohen, will you please just
14 take a quick look at this particular portion of this
15 document titled UTK Facilities.

16 A. Okay.

17 MR. ARROWOOD: Scroll down. That's it.

18 BY MR. ARROWOOD:

19 Q. Does it indicate anywhere in this portion of
02:06PM 20 the document that any person or any entity from China is
21 going to be involved in this proposal?

22 A. No.

23 Q. All right. Thank you.

24 MR. ARROWOOD: Your Honor, I believe
25 Government's 8-F is already in evidence.

DIRECT EXAMINATION - JOSEPH BAR-COHEN

1 THE COURT: 8F? I believe so, yes.

2 (Government's Exhibit 8-H was marked for
3 identification.)

4 BY MR. ARROWOOD:

5 Q. All right. Now I'd like to show you
6 Government's Exhibit 8-H. This was also one of those
7 attachments to the email. Does this look familiar to
8 you?

9 A. I think so.

02:07PM 10 Q. Can you describe briefly for the jury what this
11 is.

12 A. It's the university assurance that they are
13 complying with the China funding restriction of NASA.

14 Q. All right. Thank you.

15 (Government's Exhibit 8-II was marked for
16 identification.)

17 BY MR. ARROWOOD:

18 Q. Now I'd like to show you Government's
19 Exhibit 8-II.

02:07PM 20 MR. ARROWOOD: Scroll down, please. Little bit
21 more.

22 BY MR. ARROWOOD:

23 Q. All right. So, Dr. Bar-Cohen, what appears
24 here, I think, in this email towards the bottom is one
25 of the emails we just saw just a few moments ago.

DIRECT EXAMINATION - YOSEPH BAR-COHEN

1 MR. ARROWOOD: So if you'll please scroll up.

2 BY MR. ARROWOOD:

3 Q. In the email that's in the middle of your
4 screen, are you replying to Mr. Haswell?

5 A. Yeah.

6 Q. And why did you indicate here that, (as read)
7 "I'm only going to use the three attachments that you
8 sent."

02:08PM 9 A. Because I did not want to have any
10 document -- I wanted them to know that I'm only going to
11 use this document that looked legitimate to me, and this
12 three includes the assurance document that addresses the
13 NASA restriction. So --

14 MR. ARROWOOD: Okay. Move to admit
15 Government's Exhibit 8-II.

16 THE COURT: So admitted.

17 (Government's Exhibit 8-II was received into
18 evidence.)

19 (Government's Exhibit 8-JJ was marked for
20 identification.)

21 BY MR. ARROWOOD:

22 Q. Okay. Now I'd like to show you Government's
23 Exhibit 8-JJ.

24 MR. ARROWOOD: Scroll down just a little bit.
25 All right. Scroll back up.

DIRECT EXAMINATION - YOSEPH BAR-COHEN

1 BY MR. ARROWOOD:

2 Q. Dr. Bar-Cohen, does this document look familiar
3 to you?

4 A. Yeah.

5 MR. ARROWOOD: Your Honor, I move to admit
6 Government's Exhibit 8-JJ.

7 THE COURT: So admitted.

8 (Government's Exhibit 8-JJ was received into
9 evidence.)

02:09PM 10 BY MR. ARROWOOD:

11 Q. Will you please explain to the jury what is
12 going on in this email.

13 A. Once a proposal is submitted, I am always
14 sending to all the -- all inventors -- I'm sorry -- all
15 investigators so they will know what we committed
16 ourselves to if we win.

17 Q. And does this particular email have an
18 attachment?

19 A. Yeah, the proposal itself that was submitted.

02:10PM 20 (Government's Exhibit 8-KK was marked for
21 identification.)

22 BY MR. ARROWOOD:

23 Q. Now I'd like to show you Government's
24 Exhibit 8-KK. Dr. Bar-Cohen, this is a fairly lengthy
25 document. Is this the attachment to that previous

DIRECT EXAMINATION - YOSEPH BAR-COHEN

1 email?

2 A. It seems like, yes.

3 MR. ARROWOOD: Your Honor, move to admit
4 Government's Exhibit 8-KK.

5 THE COURT: So admitted.

6 (Government's Exhibit 8-KK was received into
7 evidence.)

8 MR. ARROWOOD: Please go to page 22. Scroll
9 down a little bit to 5.2.

02:10PM 10 BY MR. ARROWOOD:

11 Q. All right. Dr. Bar-Cohen, we're just going to
12 look at a few parts of this document. We're going to
13 look at 5.2 and 6.1, 6.2, and a couple others, but we'll
14 start there.

15 MR. ARROWOOD: If you would please -- I believe
16 it's page 55.

17 BY MR. ARROWOOD:

18 Q. Just please take a quick look at this portion
19 of the document.

02:11PM 20 A. Okay.

21 Q. Is there any mention in here of employment with
22 the Beijing University of Technology?

23 A. No.

24 MR. ARROWOOD: If we could go to pages 58 to
25 59. Keep going. I'm sorry. I'm sorry. Scroll back

DIRECT EXAMINATION - YOSEPH BAR-COHEN

1 up. Okay. One more. Keep going. I'm sorry.

2 BY MR. ARROWOOD:

3 Q. What is -- what is this title?

4 A. Current and Pending Support. If you recall,
5 there was an item of commitment that that was asking
6 for, and this is what was supposed to be included if it
7 was a starting commitment or ending commitment.

8 MR. ARROWOOD: All right. Please scroll down
9 again. Keep going. Keep going.

02:13PM 10 BY MR. ARROWOOD:

11 Q. Dr. Bar-Cohen, was there any entry for Dr. Hu?

12 A. No.

13 MR. ARROWOOD: I'd like to go to page 60. Stop
14 right there (indicating).

15 BY MR. ARROWOOD:

16 Q. All right. Dr. Bar-Cohen, what is this portion
17 of the proposal?

18 A. This is the pending awards. So it -- it
19 doesn't notify that he was awarded. It basically
02:13PM 20 included him. And if you look at the column on the
21 right, it says how much I am committed, because if it is
22 above, then the person is overcommitted.

23 MR. ARROWOOD: Can you please scroll through
24 this section as well. Scroll down. Keep going. All
25 right. Stop. Now go back up. Okay. Stop.

DIRECT EXAMINATION - YOSEPH BAR-COHEN

1 BY MR. ARROWOOD:

2 Q. All right. Dr. Bar-Cohen, will you please just
3 take a quick look at the entry for Anming Hu.

4 A. Okay.

5 Q. Are there any entries of pending support for
6 any entity in China?

7 A. No.

8 MR. ARROWOOD: Please go down to page 63.

9 BY MR. ARROWOOD:

02:14PM 10 Q. All right. Dr. Bar-Cohen, if you would please
11 just quickly review this section indicated by the
12 University of Tennessee, Knoxville.

13 A. Okay.

14 MR. ARROWOOD: We need to scroll down a little
15 bit. Keep going. All right. You can go back up,
16 please.

17 BY MR. ARROWOOD:

18 Q. That's the full entry for University of
19 Tennessee, Knoxville.

02:15PM 20 Dr. Bar-Cohen, in this particular paragraph, I
21 believe it addresses facilities, is there any
22 organization in China mentioned here?

23 A. Looking back now, it is because now I recognize
24 that Hefei National Synchrotron Radiation Facilities is
25 a Chinese organization.

DIRECT EXAMINATION - JOSEPH BAR-COHEN

1 Now, I -- probably at the time, apparently I
2 received these edits to the proposal two days before the
3 final commitment, and by that time, we were not supposed
4 to have any changes to the facility because this is
5 issue that had been settled and it was not intended to
6 do any changes. This is not the technical side that we
7 are supposed to focus on. So I guess I missed seeing
8 that. And in looking at this, I would think that
9 Harvard is our Harvard University. So I seem like I
02:16PM 10 missed that. It didn't say China. It's something that
11 I missed.

12 Q. So, to your knowledge -- well, let me ask it
13 this way: You submitted this proposal; is that correct?

14 A. Yes.

15 Q. As part of this proposal, did you anticipate
16 collaborating with any entity in China on this work?

17 A. No, and I clearly stated that.

18 MR. ARROWOOD: Okay. Your Honor, if I haven't
19 moved to admit Government's 8-KK, I'd like to do so now.

02:17PM 20 THE COURT: So admitted.

21 (Government's Exhibit 8-I was marked for
22 identification.)

23 BY MR. ARROWOOD:

24 Q. Okay. I'd like to show you Government's
25 Exhibit 8-I.

DIRECT EXAMINATION - YOSEPH BAR-COHEN

1 Okay. Again, Dr. Bar-Cohen, we're moving on to
2 a different proposal at this time. As you can see, the
3 date on this email is September 27th, 2016.

4 Do you recognize this document?

5 A. I think so.

6 Q. Can you describe for the jury generally what's
7 going on in this email.

8 A. Like I said, sometimes we support research at
9 universities when it can help us enhance our research
02:18PM 10 capability. This was -- since he had the technology
11 that was supposed to help us with the tasks that we
12 would be pursuing, I sought procurement to have
13 a -- have a Ph.D. student work on this technology with
14 guidance from Professor Anming Hu. So he prepared a
15 proposal in preparation for this procurement.

16 Q. Thank you.

17 MR. ARROWOOD: Your Honor, admit Exhibit 8-I.

18 THE COURT: So admitted.

19 (Government's Exhibit 8-I was received into
02:19PM 20 evidence.)

21 BY MR. ARROWOOD:

22 Q. Does there appear to be a couple of attachments
23 to this email?

24 A. Yes.

25 Q. I'm just going to show you one of those. I'd

DIRECT EXAMINATION - YOSEPH BAR-COHEN

1 like to show Government's Exhibit 8-L. Do you recognize
2 this type of document, Dr. Bar-Cohen?

3 A. I think so. We're talking about five years
4 ago, five-and-a-half.

5 Q. Just take a quick look at this first paragraph.

6 A. Okay.

7 Q. Is there any mention of the Beijing University
8 of Technology in that paragraph?

9 A. No.

02:19PM 10 MR. ARROWOOD: Your Honor, move to admit
11 Government's Exhibit 8-L.

12 THE COURT: L?

13 MR. ARROWOOD: I think it's already in,
14 actually.

15 THE COURT: 8-L? So admitted.

16 BY MR. ARROWOOD:

17 Q. All right. Dr. Bar-Cohen, if at any time
18 during your work on proposals that involved Anming Hu
19 had you known that he was employed by the Beijing
02:20PM 20 University of Technology, what, if anything, would you
21 have done?

22 A. No, I did not know. I thought by this time it
23 was explained to me about bringing outside or other
24 people or facilities from China, so I didn't even think
25 of bringing it into the discussion. And if I knew, as I

CROSS-EXAMINATION - YOSEPH BAR-COHEN

1 said, I would not have gone forward with any further
2 collaboration.

3 MR. ARROWOOD: Thank you, Dr. Bar-Cohen. No
4 further questions, Your Honor.

5 THE COURT: All right. Thank you.

6 Cross-examination?

7 CROSS-EXAMINATION

8 BY MR. LOMONACO:

9 Q. Good morning -- or good afternoon,
02:21PM 10 Dr. Bar-Cohen. My name is --

11 A. Good afternoon. Good morning on my end.

12 Q. I'm Phil Lomonaco. I'm Anming Hu's attorney.
13 You and I have not talked; correct?

14 A. Right.

15 Q. Have you had conversations with the government
16 leading up to your testimony today?

17 A. I have been told that we have a client/attorney
18 privileged conversation.

19 Q. Oh, okay. So you have a lawyer; correct? Are
02:21PM 20 you saying you're asserting some sort of privilege?

21 A. I have the assistance from JPL.

22 Q. Okay. And there is -- that's not against the
23 law. But I'd like to ask you some questions, and I
24 might talk about a couple of documents that the
25 government has just talked to you about. But let

CROSS-EXAMINATION - YOSEPH BAR-COHEN

1 me -- let me start with the fact that you were at the
2 time and maybe still are a group leader at NASA/JPL; is
3 that right?

4 A. Yes.

5 Q. And you're an expert on welding materials and
6 processing and things like that?

7 A. Not quite.

8 Q. Not quite? What's your expertise, sir?

02:22PM

9 A. I have general expertise in the field of
10 science.

11 Q. Okay. Let me -- let me ask you if you
12 recognize Exhibit 62.

13 MR. LOMONACO: Can you put that up.

14 BY MR. LOMONACO:

15 Q. And this appears -- see if you can recognize
16 this letter when it gets up there.

17 MR. LOMONACO: Scroll down; okay? Start at the
18 bottom.

19 BY MR. LOMONACO:

02:23PM

20 Q. This appears to be a letter from Dr. Babu to
21 you. Do you recognize that letter?

22 A. It's something that I would have agreed to.

23 Q. Let me suggest that he says he's working on a
24 proposal that is due in -- October 29th, and this last
25 sentence in the first paragraph says, "A call for the

CROSS-EXAMINATION - YOSEPH BAR-COHEN

1 proposal is about performing material science
2 investigation on the International Space Station." And
3 the last sentence in the second paragraph says, "I am
4 wondering if you are interested in the possibility of
5 partnering on this proposal, and if so, would you have
6 time to phone conversation to discuss the details."
7 Do you remember that letter now?

8 A. It is something that I would have seen. It is
9 in the right context.

02:24PM 10 Q. Dr. Babu said that he had an idea of partnering
11 with somebody on the proposal.

12 MR. LOMONACO: Go up; okay?

13 BY MR. LOMONACO:

14 Q. Do you see where you say, "I would love to.
15 Right now I'm in a meeting."

16 A. It is not showing on --

17 MR. LOMONACO: Did we miss one?

18 BY MR. LOMONACO:

19 Q. So Babu sent this --

02:25PM 20 A. Yeah, I can see it.

21 Q. Yeah. And, "I would like my colleague, Anming,
22 to join the discussion, if possible."

23 So you and Dr. Babu were working on a project
24 or a proposal; is that right?

25 A. It's an initiative that I started.

CROSS-EXAMINATION - YOSEPH BAR-COHEN

1 Q. I'm sorry; could you say that again?

2 A. This is an initiative to a proposal that they
3 started.

4 Q. Okay. So Dr. Babu took the initiative to ask
5 Anming Hu to join in on the proposal?

6 A. (No audible response.)

7 Q. Yes?

8 A. Yes.

9 Q. Okay. Thank you.

02:26PM 10 MR. LOMONACO: Keep going.

11 BY MR. LOMONACO:

12 Q. And then the next part of the email is from
13 Anming Hu, and he says, "I would love to join the
14 discussion. Thanks for chances." Do you see that?

15 A. Yes.

16 MR. LOMONACO: Keep going.

17 BY MR. LOMONACO:

18 Q. And then you say, (as read) "It is great you
19 can join. I will send you the files related to the
02:26PM 20 proposal." Correct? That's how he got involved; right?

21 A. Yes.

22 Q. Okay.

23 MR. LOMONACO: Your Honor, we'd like to move
24 that as Exhibit 62, please.

25 THE COURT: So admitted.

CROSS-EXAMINATION - YOSEPH BAR-COHEN

1 (Defendant's Exhibit 62 was marked and
2 received into evidence.)

3 (Defendant's Exhibit 63 was marked for
4 identification.)

5 MR. LOMONACO: Now, if we could turn to
6 Exhibit 63. And is this -- is this broadcast to the
7 jury right now? Okay.

8 BY MR. LOMONACO:

9 Q. Okay. So the next email I'd like to discuss
02:27PM 10 with you, sir, is another email.

11 MR. LOMONACO: Go to the bottom and start up.

12 BY MR. LOMONACO:

13 Q. And this is continuing the discussion. You
14 write to Dr. Babu and Anming. You call Dr. Babu Suresh
15 and Anming Hu. And these next couple of emails
16 basically are about how to get signed up for the project
17 and get registered, I believe.

18 MR. LOMONACO: So let's go up a couple.

19 BY MR. LOMONACO:

02:27PM 20 Q. Then you start talking about the title of the
21 project; is that right?

22 A. Right.

23 Q. Because if you have a proposal, you have to
24 give it a name; right?

25 A. Right.

CROSS-EXAMINATION - YOSEPH BAR-COHEN

1 Q. And you suggest "Rapid heating of braze
2 materials in micro-gravity and the effects on the
3 microstructure, the resultant material and the joint
4 characteristics." And you talk about Anming's
5 reflecting the inclusion of Professor Hu's brazing
6 material.

7 Did you -- did you believe at the time that
8 Professor Hu had good expertise and knowledge in the
9 area that you were interested in?

02:28PM 10 A. Based on Professor Babu's suggestions, I --

11 Q. Okay.

12 A. -- took that and --

13 MR. ARROWOOD: Let's go back up some more.

14 BY MR. LOMONACO:

15 Q. Yes, sir.

16 This one just says that Anming has gotten into
17 the system. I guess that's the system for the proposal
18 system.

19 MR. LOMONACO: Go to the next one; okay?

02:29PM 20 Oh, Your Honor, I'd like to publish Exhibit 63.

21 THE COURT: Like to admit it into evidence? So
22 admitted.

23 (Defendant's Exhibit 63 was received into
24 evidence.)

25

CROSS-EXAMINATION - YOSEPH BAR-COHEN

1 BY MR. LOMONACO:

2 Q. So, by this time, the three of you are working
3 on this project; right?

4 A. Yes.

5 (Defendant's Exhibit 60 was marked for
6 identification.)

7 MR. LOMONACO: Let's go to 60.

8 BY MR. LOMONACO:

9 Q. Now I show you what's marked as Exhibit 60 and
02:29PM 10 ask you --

11 MR. LOMONACO: Get to the bottom.

12 BY MR. LOMONACO:

13 Q. Let's go to the start of the email and see who
14 it's from; okay?

15 And this is from Babu to Anming and you, and
16 he's talking about making the proposal better, and
17 you're talking about the page limits, talking about what
18 you're going to put in the proposal, and you're talking
19 about a different name for it. And you ask if Anming
02:30PM 20 can compare the densities and also phase diagrams of his
21 alloy selection.

22 So we're talking the technical things that are
23 going in the proposal; right?

24 MR. LOMONACO: Go to the next page.

25

CROSS-EXAMINATION - YOSEPH BAR-COHEN

1 BY MR. LOMONACO:

2 Q. And then you send another email to Babu Suresh
3 telling him that the limit is 20 pages and he's going on
4 a trip and you say, "Enjoy your trip."

5 MR. LOMONACO: Let's go to the next one.

6 BY MR. LOMONACO:

7 Q. And then Anming Hu says he's working on the
8 relevant questions and suggestions and he's talking
9 about the budget, about how much it's going to cost, and
02:31PM 10 he's talking about the university, I guess the
11 University of Tennessee, talking about the budget. And
12 he thanks you for his collaboration and continuing
13 efforts. So that's in -- let's get the date on that.
14 January 1st. New Year's Eve -- New Year's Day 2016.

15 MR. LOMONACO: Let's go to the next -- that's
16 the next one; right?

17 If we can admit -- can we admit Exhibit 60,
18 Your Honor, please?

19 THE COURT: So admitted.

02:31PM 20 (Defendant's Exhibit 60 was received into
21 evidence.)

22 BY MR. LOMONACO:

23 Q. Now, on page 60 --

24 MR. LOMONACO: Let's go to page 3 -- okay? --
25 before we go any further.

CROSS-EXAMINATION - YOSEPH BAR-COHEN

1 MR. PARSONS: We're on page 3.

2 MR. LOMONACO: Okay.

3 BY MR. LOMONACO:

4 Q. So in the bottom of that page to you, Dr. Hu
5 says, "The other files" -- parentheses -- "(facilities
6 and letters) will be ready soon." Did you know what he
7 was referring to when he wrote that, or did --

8 A. It is supposed to be for complementary items
9 beyond the technical and it's mentioning facilities and
02:33PM 10 individuals.

11 Q. And when he wrote that "facilities and
12 letters," do you know what letters he was talking about?

13 A. I assumed that they are about the proposal.

14 Q. Okay. And what about facilities? Would that
15 be other facilities that could do work on the proposal?
16 Is that what you understand that to be?

17 A. No, my understanding is that it's the
18 description of facilities, but there is a section about
19 facilities, and at the time that was required with the
02:34PM 20 letter of commitment.

21 MR. LOMONACO: Okay. So let's go to page 1 on
22 that. Go right up to the top. Is that January 4th?
23 Yeah.

24 BY MR. LOMONACO:

25 Q. Now, at --

CROSS-EXAMINATION - JOSEPH BAR-COHEN

1 MR. LOMONACO: Drop down a little bit.

2 Send the -- get that 10/28 email.

3 MR. PARSONS: This is it.

4 MR. LOMONACO: Okay. Can you show me the whole
5 email, front page, top?

6 BY MR. LOMONACO:

7 Q. Okay. Now, on January 4th at 10:28, Professor
8 Hu sends you an email to you, and there are some other
9 people here that are included. But the attachment says,
02:35PM 10 (as read) "Letter-bjut," and then "Facilities."
11 "Proposal Brazing in microgravity." And he says that
12 he's attaching a letter from BJUT. Do you see that?
13 From BJUT, Beijing University of Technology.

14 A. Yes, I see that, yes.

15 (Defendant's Exhibit 61 was marked for
16 identification.)

17 BY MR. LOMONACO:

18 Q. Okay. Let's go to Exhibit 61 then.

19 And you may have seen this already by the
02:35PM 20 government, but I'd like to show it to you again.

21 MR. LOMONACO: And, Your Honor, I'd like to
22 move into -- 61, please.

23 THE COURT: 61 is admitted.

24 (Defendant's Exhibit 61 was received into
25 evidence.)

CROSS-EXAMINATION - YOSEPH BAR-COHEN

1 BY MR. LOMONACO:

2 Q. And this says, "Letter of Commitment for the
3 study on the brazing in microgravity."

4 This letter is from a professor in China at the
5 Beijing University of Technology; correct?

6 A. That's what it states.

7 Q. Yes. And in that letter, Dr. Hu is discussed
8 as a long-term collaborator with this individual;
9 correct?

02:36PM 10 A. Yes.

11 Q. So this letter is not hiding Professor Hu's
12 collaboration with the Chinese professor at Beijing
13 University, is it?

14 A. This is what is stated.

15 Q. I'm sorry; what did you say?

16 A. This is what is stated in the letter.

17 Q. Yes, it's what's stated; right?

18 He's disclosing his relationship with a
19 professor from Beijing University and that he's had a
02:37PM 20 long-term collaboration; correct?

21 A. Well, collaboration doesn't mean working at or
22 working --

23 Q. Right, right. Collaboration can mean a lot of
24 different things, can't it?

25 A. It can mean.

CROSS-EXAMINATION - JOSEPH BAR-COHEN

1 Q. Did you ask him what he meant or what this
2 professor meant by collaboration?

3 A. No, because I did not see it as working
4 collaboration.

5 Q. Okay. Well, we'll get to that. But you didn't
6 ask him to explain the letter as far as his
7 collaboration; correct?

8 A. No.

9 (Defendant's Exhibit 66 was marked for
02:37PM 10 identification.)

11 MR. LOMONACO: Okay. Let's go to Exhibit 66.
12 Let me make sure. Did I move in 61? If not --

13 THE COURT: You did.

14 MR. LOMONACO: Thank you, Your Honor. I'd like
15 to move in Exhibit 66 as the next exhibit.

16 THE COURT: So admitted.

17 (Defendant's Exhibit 66 was received into
18 evidence.)

19 BY MR. LOMONACO:

02:38PM 20 Q. Now, the government showed you this, too, and
21 at this point this is a draft of the proposal; correct?

22 A. This is not the draft. This is just a proposal
23 that was sent to me and I edited.

24 Q. I'm sorry, Dr. Bar-Cohen. I'm having a hard
25 time understanding what you're saying. Can you move a

CROSS-EXAMINATION - YOSEPH BAR-COHEN

1 little bit closer to the microphone.

2 A. Sure.

3 Q. And tell me what this is.

4 A. This is the facilities description that Anming
5 sent for inclusion in the proposal.

6 Q. Okay. So, in other words, this is talking
7 about facilities that could be used in the contract, in
8 the project? Is that right?

9 A. That is what is stated here.

02:39PM 10 Q. Okay. And the part that I have highlighted
11 here, he's talking about X-ray computed tomography
12 available through collaboration between Dr. Hu and
13 Dr. Tao Chen, and he's talking about see the letter of
14 commitment at the Beijing Institute of High Energy
15 Physics; can be accessed through a user proposal. So
16 does it look like he's hiding his affiliations with BJUT
17 at this point?

18 MR. ARROWOOD: Objection, Your Honor,
19 argumentative.

02:40PM 20 BY MR. LOMONACO:

21 Q. Let me ask it this way?

22 THE COURT: Ask it a different way. Thank you.

23 BY MR. LOMONACO:

24 Q. Did you realize when you read this that he has
25 further affiliations with BJUT?

CROSS-EXAMINATION - YOSEPH BAR-COHEN

1 A. No.

2 Q. You didn't?

3 What did you think --

4 A. No.

5 Q. -- when you found out that he had the
6 connections of these laboratory -- with this laboratory?

7 A. We have friends throughout the world and I work
8 with people throughout the world, and the fact that I
9 have follow-up question would be (unintelligible)
02:40PM 10 anyways. I assume collaboration means in connection
11 with technical people anywhere. I did not see this -- I
12 just did for my eyes that the technologies to work with
13 people anywhere around the world. And this is -- was my
14 interpretation. He can access -- you know, I have
15 friends that I can go to anywhere in the world and say,
16 hey, could you help me with that.

17 Q. Well, Dr. Bar-Cohen, were you aware of the NASA
18 restriction during this time?

19 A. I was aware that there is a NASA restriction.

02:41PM 20 Q. Were you aware that the NASA restriction said
21 that NASA cannot collaborate bilaterally with China or a
22 Chinese company? Did you know that's what it said?

23 A. I did not -- I did not interpret this and I
24 edited it and I thought that he is not going to use any
25 collaboration in the proposal.

1 Q. Okay.

2 A. And the way I interpreted is: The fact that he
3 has friends in China doesn't make him -- it an
4 illegitimate proposal. I have employees in my group
5 that is from China. That does not exclude him from
6 working in my group. He's just American citizen and so
7 on. I did not interpret this collaboration as something
8 that is working relation that has formal collaboration.
9 For collaboration, I am working with people in
02:42PM 10 Australia. I'm working with people in Europe. I'm
11 working with people in Canada. And I call it
12 collaboration.

13 The interpretation of the word collaboration
14 has been for my eyes in the technologies. He wanted to
15 include someone. He send this letter from Dr. Tao Chen,
16 and I did not include this. And I -- since I asked him
17 not to include it, and my response to this email has
18 been that he should not use anyone in China.

19 Q. Yes, sir. I understand. And nobody is --
02:43PM 20 nobody is trying to point any fingers at you. We're
21 just trying to get to the point about what Professor --

22 A. I understand, but you asked me a question about
23 this work collaboration and in light as if I am -- I
24 knew that he had the contract somewhere. I did not know
25 any of that. For me, collaboration, we are scientists

CROSS-EXAMINATION - JOSEPH BAR-COHEN

1 and I collaborate with people. This is my
2 interpretation.

3 (Defendant's Exhibit 64 was marked for
4 identification.)

5 BY MR. LOMONACO:

6 Q. Okay. Let's go to the next spot there. Let's
7 go to Exhibit 64.

8 I'd ask that this be moved into exhibit (sic),
9 Your Honor, if it hasn't already.

02:43PM 10 THE COURT: 64? So admitted.

11 (Defendant's Exhibit 64 was received into
12 evidence.)

13 MR. LOMONACO: Okay. Let's go to the bottom.
14 This is a set of emails. And let's go to the top.

15 BY MR. LOMONACO:

16 Q. Okay. So now we've got -- what's the date on
17 that? -- another email from Anming Hu, January 4th
18 stating, in relevant part -- I've got it circled or
19 boxed there -- talking about fixing a financial file and
02:44PM 20 trying to get the second letter of commitment.

21 Did you -- do you know what that second letter
22 of commitment is that he was talking about?

23 A. I was not sure about that.

24 Q. Okay. Let's move on up.

25 And then you said -- you had an idea, though,

CROSS-EXAMINATION - JOSEPH BAR-COHEN

1 didn't you, because your response was, "If you are
2 preparing letters from China, I cannot use them in this
3 proposal." That's what you said; right?

4 A. Right.

5 Q. Right. And then his response is, "I see. In
6 this case we do not need them." Right? So he wasn't
7 committed to those people. He just was suggesting
8 possible help. Is that your understanding of what he
9 was doing?

02:45PM 10 A. I'm assuming that that was -- it said that we
11 do not need this letter because we weren't going to use
12 it.

13 Q. And then he said, well, if you don't think we
14 should use them, then we won't use them; correct?

15 A. Yes.

16 MR. LOMONACO: Scroll up.

17 (Defendant's Exhibit 65 was marked for
18 identification.)

19 MR. LOMONACO: All right. Now we can turn to
02:46PM 20 65. And move into evidence Exhibit 65, Your Honor,
21 please.

22 THE COURT: So admitted.

23 (Defendant's Exhibit 65 was received into
24 evidence.)

25 MR. LOMONACO: Bottom of page 1.

CROSS-EXAMINATION - YOSEPH BAR-COHEN

1 BY MR. LOMONACO:

2 Q. And you said -- you submitted your current
3 version and -- to Dr. Hu and said, (as read) "I revised
4 the description, the facility description," and that's
5 the one that had the Chinese laboratory in it. "I
6 removed the mentioning of the use of facility in China.
7 We need to avoid mentioning since NASA does not allow
8 such formal collaboration."

9 And at that time, that was a true statement;
02:47PM 10 right?

11 A. Yeah.

12 Q. Now, you didn't tell Professor Hu he couldn't
13 be on the project even though he had a long-term
14 collaboration; correct?

15 A. Correct.

16 Q. And isn't it -- isn't it true that the NASA
17 restriction --

18 MR. ARROWOOD: Objection, Your Honor. Let the
19 witness answer the question.

02:47PM 20 THE COURT: He may not have been done with that
21 answer to the last question.

22 Go ahead, Dr. Bar-Cohen. If you have a further
23 response, you can go ahead.

24 MR. LOMONACO: Yes, sir.

25 THE COURT: Did you have anything further you

CROSS-EXAMINATION - YOSEPH BAR-COHEN

1 wanted to say in response to that last question?

2 THE WITNESS: He was trying to ask if knowing
3 that he has collaboration. I thought I clarified that.
4 I interpret collaboration not as a working
5 collaboration, but as just scientists talking to each
6 other. This is my interpretation. That's why I didn't
7 see it as an issue. But in the proposal, I did not want
8 to see any inclusion of Chinese organization or China.

9 BY MR. LOMONACO:

02:48PM 10 Q. Now, let me ask you: At this time, was your
11 understanding of the NASA restriction that NASA could
12 not cooperate or collaborate bilaterally with China or a
13 Chinese corporation on the project? In other words,
14 that NASA can't use its grant money to enter into some
15 sort of collaboration with any Chinese company or China
16 itself; right?

17 A. It would be more general. Any NASA proposal,
18 we're not supposed to use funds to any foreign --

19 Q. Any what? I'm sorry; I didn't hear that.

02:49PM 20 A. Any foreign scientists (unintelligible).

21 Q. Any pointing?

22 A. Funding -- funding proposal supposed to be only
23 for U.S. company and U.S. participants --

24 Q. Okay.

25 A. -- or investigators.

CROSS-EXAMINATION - YOSEPH BAR-COHEN

1 Q. Okay. I can understand that.

2 A. Not only China, but let alone China.

3 Q. Okay. So it's not so much somebody has got a
4 job. It's whether they use the money from NASA to do
5 something in China or do something with China; right?

6 A. The proposal is a contract, basically. We are
7 committing what we're doing -- we're going to do
8 technically and what do we do with the funds; execute
9 what we propose technically. So we are not using funds
02:50PM 10 to anyone in China, and, therefore, we are not -- the
11 proposal is not involved participation with anyone in
12 China, and as I said, anyone else outside the country.

13 Q. Okay. Now, after -- after --

14 (Defendant's Exhibit 17 was marked for
15 identification.)

16 MR. LOMONACO: Let's go to Exhibit 17.

17 BY MR. LOMONACO:

18 Q. On January 6th, this letter was written, and
19 this is from Guobin Zhang from University of Science and
02:51PM 20 Technology in China.

21 MR. LOMONACO: Scroll up a little bit.

22 BY MR. LOMONACO:

23 Q. And this is another letter, is it not, a second
24 letter?

25 A. I have not seen this letter before. If this

CROSS-EXAMINATION - YOSEPH BAR-COHEN

1 was an attachment to, I did not see it before. And I
2 always respond to letters or emails. As a conclusion, I
3 always try to say thank you. This email has not been
4 responded. I did not see it.

5 MR. LOMONACO: Okay. One moment, please.

6 BY MR. LOMONACO:

7 Q. Are you saying you haven't seen the email or
8 that it wasn't sent to you?

9 A. I have not seen it.

02:51PM 10 Q. Okay. Are you aware that it was an attachment
11 to the last letter?

12 MR. LOMONACO: Let's go back to the last
13 letter. The last one. 67.

14 (Defendant's Exhibit 67 was marked for
15 identification.)

16 BY THE WITNESS:

17 A. I look for the emails archive. This was the
18 first time that I've seen this letter, this email,
19 because I was looking to see what was sent and what was
02:52PM 20 received.

21 BY MR. LOMONACO:

22 Q. Do you see where this letter from Anming says,
23 "Although you did not need this letter of support for
24 submission, I send it to you for your records." Do you
25 see that?

CROSS-EXAMINATION - YOSEPH BAR-COHEN

1 A. I see it, yes.

2 Q. Okay. You just didn't review it; is that what
3 you're saying?

4 A. I'm saying I didn't see it at the time.

5 Q. Okay. You're aware that your attorney sent it
6 to us as -- are you aware that your attorney sent it to
7 us as part of your subpoena request?

8 A. Yes. In response to the subpoena, I went
9 and -- and with help with our IT department looked for
02:53PM 10 all the archive of the emails that was asked, and I went
11 through to know what was in there, and that was the
12 first time since I've seen this one.

13 Q. Yes, sir. Thank you. And we appreciate your
14 efforts.

15 MR. LOMONACO: Let's go back to Exhibit 17.

16 MR. PARSONS: Did you admit 67?

17 MR. LOMONACO: Admit 67? I think I already
18 did, but if I didn't, Your Honor, I'd move 67.

19 THE COURT: So admitted. You may not have, but
02:53PM 20 we'll admit it.

21 (Defendant's Exhibit 67 was received into
22 evidence.)

23 MR. LOMONACO: Thank you, Your Honor.

24 Now let's look at Exhibit 17. I admit that
25 one, too, if I may.

CROSS-EXAMINATION - YOSEPH BAR-COHEN

1 MR. PARSONS: That's already admitted.

2 MR. LOMONACO: That one's admitted. Okay.

3 BY MR. LOMONACO:

4 Q. So getting back to this letter --

5 MR. LOMONACO: It's from a different professor;
6 right? Can you move it up just a little bit? No, the
7 other way.

8 Can we -- all right. That's good.

9 BY MR. LOMONACO:

02:54PM 10 Q. Do you see the second sentence in this letter
11 says, (as read) "I have a long-term collaboration on
12 nanostructure characterization with Dr. Anming Hu at the
13 University of Tennessee. He has explained to me that he
14 is pursuing a research proposal." And what is the
15 title -- what does the letterhead say on this case -- on
16 this letter? National Synchrotron Radiation Laboratory.

17 So, again, Anming Hu was openly producing
18 documents demonstrating that he communicates and
19 collaborates with people in China.

02:54PM 20 (Defendant's Exhibit 68 was marked for
21 identification.)

22 MR. LOMONACO: Let's go to Exhibit 68 if we
23 could.

24 BY THE WITNESS:

25 A. This is -- this is the email and the letter

CROSS-EXAMINATION - YOSEPH BAR-COHEN

1 that I have not seen because I did not respond to it.

2 BY MR. LOMONACO:

3 Q. That's fine. Do you want to read it some more?

4 Have you had time to look at the letter?

5 A. Well, when I send -- I did not read it in
6 detail. I just saw it when I was in the process of
7 compiling all the emails to be sent to you. I did not
8 read it in detail.

9 Q. Did you ever at this time tell Professor Hu
02:55PM 10 that he couldn't work on the NASA proposal because he
11 had too much connection to China?

12 A. I did not see it at the time.

13 Q. Okay.

14 A. He was contacting or having the technical
15 introductions with people. As I said, I do it, also.
16 So I didn't see it as a working relation effort.

17 Q. I understand, sir.

18 MR. LOMONACO: Let's go to Exhibit 68. And I
19 can move that in, please, Exhibit 68, for the next
02:56PM 20 exhibit.

21 THE COURT: So admitted.

22 (Defendant's Exhibit 68 was received into
23 evidence.)

24 MR. LOMONACO: Thank you, Your Honor.

25 Let's go up one.

CROSS-EXAMINATION - YOSEPH BAR-COHEN

1 BY MR. LOMONACO:

2 Q. This is when Professor -- or Drew Haswell was
3 getting involved.

4 MR. LOMONACO: Back up. Let me see the blue.

5 Okay. Keep going.

6 MR. PARSONS: Up?

7 MR. LOMONACO: Yeah.

8 BY MR. LOMONACO:

9 Q. This is the email from Drew Haswell, and I
02:57PM 10 think you were cc'd on it, and in this email -- this was
11 an email that was actually written by Professor Hu to
12 Drew Haswell, and he's asking for -- he has a question
13 about the China Assurance. Do you see that last
14 sentence?

15 A. Yes.

16 MR. LOMONACO: And let's -- let's go back to
17 the letter that Drew Haswell sent that caused that
18 question.

19 BY MR. LOMONACO:

02:57PM 20 Q. Here is the letter that Drew Haswell sent.

21 Here it is (indicating). Right at the end of
22 that letter that Drew Haswell sent, it says, "After
23 these two items have been addressed" -- and I think
24 they're talking about financing -- and, (as read)
25 "...we'll be ready to obtain the Letter of

CROSS-EXAMINATION - YOSEPH BAR-COHEN

1 Commitment/UTK China Assurance document and have all
2 this submitted."

3 MR. LOMONACO: And then let's go back up again.

4 BY MR. LOMONACO:

5 Q. And Professor Hu says, (as read) "The
6 UK" -- (as read) "The China Assurance letter, are you
7 talking about the letter I submitted? Are you talking
8 about the Hefei National Radiation Facility, right? I
9 included one letter. Does this solve this concerning?"

02:58PM 10 Did you read that at the time?

11 A. I interpret it as the NASA assurance that he
12 will assure that this will not be used.

13 Q. Does this indicate that Professor Hu is
14 confused about this whole process with China?

15 MR. ARROWOOD: Objection, Your Honor, calls for
16 speculation on the defendant's state of mind.

17 THE COURT: I think as asked, that's probably a
18 valid objection.

19 BY MR. LOMONACO:

02:59PM 20 Q. Were you confused about the connection with
21 China collaboration and the NASA restriction at the
22 time?

23 A. I wasn't sure about the meaning, but I assume
24 that this is something that was between the university
25 and Anming and they are trying to clarify because he

CROSS-EXAMINATION - YOSEPH BAR-COHEN

1 mentioned that he has collaboration and he wanted to
2 have a clear clarification.

3 So I didn't see it myself as part of this
4 discussion, and I assumed that once they resolved the
5 problem, I will be --

6 Q. Thank you, sir. I think you said you didn't
7 see it yourself; is that what you said?

8 A. What do you mean?

9 Q. I thought I was just repeating what you said.

03:00PM 10 I thought you said something to the effect --

11 A. No, what I'm saying is: I did not look at this
12 in detail because I saw this as something between Anming
13 and the university. So I did not try to interpret what
14 he was talking about.

15 (Defendant's Exhibit 144 was marked for
16 identification.)

17 MR. LOMONACO: Okay. Let's go to Exhibit 144,
18 please.

19 Did we admit that last exhibit, Exhibit 68?

03:01PM 20 THE COURT: It's admitted.

21 MR. LOMONACO: Thank you, Your Honor.

22 Can I move in Exhibit 144, please?

23 THE COURT: Yes, admitted.

24 (Defendant's Exhibit 144 was received into
25 evidence.)

CROSS-EXAMINATION - YOSEPH BAR-COHEN

1 BY MR. LOMONACO:

2 Q. Exhibit 144 is an email. Do you recognize this
3 email? I know it's a tough question because it's been a
4 while, but this is where you submitted the proposal, and
5 you testified about it on direct examination here a
6 minute ago. And I won't belabor it. I think I
7 understand your testimony about this.

8 When you submitted the proposal, there was
9 still part of the proposal that had a reference to a
03:01PM 10 Chinese lab in the proposal, and that was probably a
11 mistake, that it just didn't get all taken out of there;
12 is that what you were saying?

13 A. Yes, I noticed that now that I was looking at
14 the document.

15 (Defendant's Exhibit 145 was marked for
16 identification.)

17 MR. LOMONACO: All right. Let's go to
18 Exhibit 145.

19 We can move that in as the next exhibit.

03:02PM 20 THE COURT: So admitted.

21 (Defendant's Exhibit 145 was received into
22 evidence.)

23 BY MR. LOMONACO:

24 Q. And, again, this is the proposal. You were the
25 principal investigator on this proposal. But this

CROSS-EXAMINATION - YOSEPH BAR-COHEN

1 proposal that we've been talking about and that
2 Professor Hu submitted the letters, that one did not get
3 approved; is that correct?

4 A. Yeah, we didn't win this proposal.

5 Q. You didn't win that one.

6 (Defendant's Exhibit 70 was marked for
7 identification.)

8 MR. LOMONACO: Let's go to Exhibit 70.

9 And move to admit Exhibit 70, please.

03:03PM 10 THE COURT: So admitted.

11 BY MR. LOMONACO:

12 Q. Okay. Exhibit 70 is the second proposal. It's
13 an email first. And you had actually asked Anming to
14 send a proposal on this; correct? If you look at the
15 highlighted part -- I can give you time to read it if
16 you'd like.

17 Do you see where it says, "...I have asked you
18 to send me a proposal to support our MSR task of
19 Break-the-Chain using brazing..." Do you see that?

03:04PM 20 A. Yes.

21 Q. You were interested still -- what's the date on
22 this? September?

23 This is nine months after the first proposal,
24 and you wanted to have Anming work on this proposal with
25 you; correct?

CROSS-EXAMINATION - YOSEPH BAR-COHEN

1 A. Yes.

2 MR. LOMONACO: And scroll down; okay? The
3 other way. Well, no, keep going up.

4 (Defendant's Exhibit 71 was marked for
5 identification.)

6 MR. LOMONACO: All right. Let's go to
7 Exhibit 71. And I ask that that be moved in, please.

8 THE COURT: So admitted.

9 (Defendant's Exhibit 71 was received into
03:05PM 10 evidence.)

11 BY MR. LOMONACO:

12 Q. Now, Exhibit 71 is an email from Anming Hu, and
13 I believe it's sending this second proposal to you and
14 your office, and basically you -- he says, "I" -- you
15 ask, first of all, for a short statement.

16 MR. LOMONACO: 71. Yeah, let me get down to
17 that. I'm sorry.

18 BY MR. LOMONACO:

19 Q. You ask him to provide a short statement of why
03:05PM 20 he is qualified to write this proposal. Can you see
21 that?

22 A. Yes.

23 Q. And were you going to use that as part of the
24 proposal?

25 A. Let me explain what this is. This is what we

CROSS-EXAMINATION - YOSEPH BAR-COHEN

1 call procurement, trying to support research at the
2 university that will help us develop the needed
3 technology that we're going to have inhouse.

4 I cannot use -- I have to justify why this
5 university will be, and I need to identify organizations
6 that are competitive.

7 We had three organizations and universities
8 that are working with the technology that I identified,
9 and one in China, one in Portugal, and one in Canada,
03:07PM 10 and this is -- all three are foreign countries, and
11 Anming had the capability in our -- in this country.
12 That was the justification that we needed to put forth
13 for justification.

14 Q. Okay. Thank you, sir.

15 So even though he had told -- sent you some
16 letters about his collaboration with China a few months
17 prior to that, you still requested that he submit
18 something so he could be considered. So you weren't
19 trying to exclude him from NASA grants at that point,
03:07PM 20 were you?

21 A. I will repeat what I said. I did not see those
22 letters at the time and I didn't know about those
23 letters, the work collaboration that was -- that he
24 mentioned. I did not see it.

25 Q. Okay. When was the first time you knew that

CROSS-EXAMINATION - YOSEPH BAR-COHEN

1 Anming had so-called employment in China?

2 A. Well, this -- whatchamacallit -- subpoena made
3 me aware that the reason -- the issue that he had
4 employment. I did not know it before.

5 Q. Now, the subpoena didn't tell you that --

6 MR. LOMONACO: Did somebody say something, or
7 was that just an echo.

8 BY MR. LOMONACO:

9 Q. Professor, the subpoena didn't tell you that
03:08PM 10 Anming Hu had a job in China, so-called employment from
11 China. Where did you first hear that?

12 A. I think I saw an email from him asking me to
13 help him, and that was what alerted me to understand
14 this -- the issue with this. I did not know it before.

15 Q. You saw it where, sir?

16 A. Anming sent me an email asking my help.

17 Q. So Anming sent you a subpoena?

18 A. (Unintelligible).

19 THE COURT REPORTER: I did not understand the
03:09PM 20 answer.

21 BY THE WITNESS:

22 A. That was the first time I've seen it.

23 BY MR. LOMONACO:

24 Q. Did you talk to a federal agents about that,
25 too?

CROSS-EXAMINATION - JOSEPH BAR-COHEN

1 A. As I said, I have the attorney.

2 Q. Are you looking at your attorney when you turn
3 away like that?

4 A. Excuse me?

5 Q. Are you looking at your attorney?

6 THE COURT: Let me interject. Let me
7 interject.

8 BY THE WITNESS:

9 A. I'm looking for the wording.

03:09PM 10 THE COURT: He's asking right now have you
11 talked with federal agents. He's not asking about
12 conversations with your attorney. So the question is:
13 Have you talked with federal agents about this?

14 Is that right, Mr. Lomonaco?

15 MR. LOMONACO: Yes, Your Honor.

16 THE COURT: All right. So that's the question
17 on the table.

18 BY THE WITNESS:

19 A. Yes.

03:10PM 20 BY MR. LOMONACO:

21 Q. Yes? I think you said yes. And I apologize.
22 I don't hear as good as I used to. But if you don't
23 correct me, I'll assume you said yes. Thank you, sir.

24 How long ago did you talk to them?

25 A. (Unintelligible) a week.

CROSS-EXAMINATION - JOSEPH BAR-COHEN

1 THE COURT REPORTER: I did not understand the
2 witness.

3 THE COURT: Could you repeat that answer,
4 please?

5 BY MR. LOMONACO:

6 Q. A week?

7 A. Something like that.

8 Q. Is that the first time you talked about this
9 case was a week ago with the federal agents? Is that
03:11PM 10 the first time or just one of the times?

11 A. Second time.

12 Q. And when was the first time?

13 A. I think a week before. I don't remember.

14 Q. Is that when you found out Anming Hu had a job
15 in China?

16 A. Yes.

17 Q. Did you talk to Lee Gibson about this case,
18 too?

19 A. I'm not sure who I talked to.

03:12PM 20 Q. Okay, sir. Thank you for your time and
21 trouble.

22 THE COURT: Thank you.

23 Redirect examination?

24 MR. ARROWOOD: Nothing, Your Honor. Thank you.

25 THE COURT: Okay. Thank you. That concludes

CROSS-EXAMINATION - YOSEPH BAR-COHEN

1 this witness's testimony, and we'll take an afternoon
2 break at this time.

3 THE COURTROOM DEPUTY: All rise.

4 (Jurors excused from the courtroom.)

5 THE COURTROOM DEPUTY: This honorable court
6 stands in recess until 3:30.

7 (A brief recess was taken.)

8 THE COURTROOM DEPUTY: This honorable court is
9 again in session.

03:34PM 10 THE COURT: Let's bring our jury in.

11 (Whereupon the following report of
12 proceedings was had within the presence
13 and hearing of the jury:)

14 THE COURT: All right. Thank you. Everyone
15 may be seated and the courtroom deputy will swear in the
16 next witness.

17 (The witness was thereupon duly sworn.)

18 THE COURTROOM DEPUTY: Have a seat, please.
19 Please state and spell your name for the record.

03:35PM 20 THE WITNESS: My first name is Kujtim,
21 K-u-j-t-i-m. My last name is Sadiku, spelled
22 S-a-d-i-k-u.

23 THE COURTROOM DEPUTY: Thank you.

24

25

DIRECT EXAMINATION - KUJTIM SADIKU

1 KUJTIM SADIKU,

2 having been first duly sworn, was examined and testified
3 as follows:

4 DIRECT EXAMINATION

5 BY MR. ARROWOOD:

6 Q. Good afternoon.

7 A. Good afternoon.

8 Q. Will you please tell the jury where you're
9 employed.

03:35PM 10 A. I am employed -- I am employed at the Federal
11 Bureau of Investigation, the Knoxville Field Office.

12 Q. What is your role in the FBI?

13 A. I'm a special agent.

14 Q. So let's just go a little bit further back in
15 your background. Would you please describe for the jury
16 your educational background.

03:36PM 17 A. I have a bachelor's in science in biology from
18 the University of Illinois in Chicago, and I have a
19 master's in public health and epidemiology from the

20 School of Public Health from the University of Illinois
21 in Chicago.

22 Q. Were you employed by any other organization
23 prior to joining the FBI?

24 A. I was.

25 Q. What job did you have before joining the FBI?

DIRECT EXAMINATION - KUJTIM SADIKU

1 A. I was a consumer safety officer with the United
2 States Food and Drug Administration.

3 Q. And just generally speaking, what are the
4 duties of that role?

5 A. I was assigned to the bioresearch monitoring
6 program and I conducted inspections of clinical trials
7 that were testing investigational drugs and
8 investigational devices.

9 Q. So when did you join the FBI?

03:37PM 10 A. 2008.

11 Q. When you joined the FBI, did you undergo
12 initial training as a special agent?

13 A. I did. I attended the FBI training academy for
14 new agents. It's approximately a 20-week course.

15 Q. And where is that training located?

16 A. Quantico, Virginia.

17 Q. So after graduating from that course, where did
18 you go next?

19 A. I was assigned to the Knoxville Field Office.

03:37PM 20 Q. What year was that?

21 A. 2008.

22 Q. What is your assignment within the Knoxville
23 Field Office of the FBI?

24 A. Since reporting to Knoxville from Quantico,
25 I've been assigned to national security matters.

DIRECT EXAMINATION - KUJTIM SADIKU

1 Q. So as a special agent that investigates
2 national security matters, could you just describe in
3 very general terms what your roles and duties are.

4 A. I conduct investigations from alleged federal
5 crimes from foreign actors against the United States.

6 Q. Is it fair to say that you're the case agent
7 for this particular case?

8 A. That's correct.

9 Q. I'm sorry. Are you one of the case agents on
03:38PM 10 the case?

11 A. That's correct.

12 Q. When was this case opened in the FBI?

13 A. This case was opened in March 2018.

14 Q. And at that time, what was the basis for
15 opening the case?

16 A. I initiated this investigation predicated on
17 information I had that Anming Hu was part of a foreign
18 government talent plan.

19 Q. As part of the case, have you worked with other
03:38PM 20 law enforcement agencies?

21 A. Yes.

22 Q. What were those law enforcement agencies?

23 A. The Department of Energy, Office of Inspector
24 General, and NASA, Office of Inspector General.

25 Q. During the course of the investigation, early

DIRECT EXAMINATION - KUJTIM SADIKU

1 on in the investigation, did you conduct an interview of
2 the defendant?

3 A. I did.

4 Q. Why did you want to interview the defendant?

5 A. So, after initiating the investigation in
6 March, approximately March 2018, the next course of
7 action in an investigation is to collect information and
8 ask questions and conduct fact-finding missions to
9 further the investigation.

03:39PM 10 Q. So when did this interview take place?

11 A. Sometime in April 2018.

12 Q. So about a month into the investigation?

13 A. That's correct.

14 Q. Do you recall where the interview took place?

15 A. The interview took place in his office at the
16 University of Tennessee in Knoxville.

17 Q. Do you happen to recall approximately what time
18 of day this interview occurred?

19 A. I don't, but it was -- it was light out.

03:40PM 20 Q. Do you believe it was during the workday?

21 A. Yes.

22 Q. Now, did you interview the defendant by
23 yourself?

24 A. I did not.

25 Q. Who was with you?

DIRECT EXAMINATION - KUJTIM SADIKU

1 A. Department of Energy, Office of Inspector
2 General, Special Agent Laura Slatton.

3 Q. Now, did you or Special Agent Slatton record
4 the interview?

5 A. We did not.

6 Q. Did you take notes?

7 A. We did.

8 Q. Both you and Special Agent Slatton took notes?

9 A. That's correct.

03:40PM 10 Q. And so how, if at all, did you memorialize this
11 interview?

12 A. Well, I wrote up a record, a report of the
13 interview.

14 Q. Is that record a verbatim account of what
15 occurred during that interview?

16 A. No, it is not.

17 Q. Do you recall some of the topics that you
18 covered during that interview with the defendant?

19 A. I do.

03:41PM 20 Q. What, if anything, did the defendant tell you
21 about his citizenship?

22 A. Anming Hu told me he was a Canadian National
23 with a Canadian passport.

24 Q. Did he tell you what his current position was?

25 A. He did.

DIRECT EXAMINATION - KUJTIM SADIKU

1 Q. What did he say?

2 A. He was a professor at the University of
3 Tennessee in Knoxville.

4 Q. Earlier you mentioned that you predicated the
5 investigation based on information that at least
6 indicated association with a foreign government talent
7 plan. Did you ask the defendant about that?

8 A. I did, yes.

9 Q. If you can recall, what did you ask him?

03:42PM 10 A. I showed him a printout of a Thousand Talents
11 website.

12 Q. Do you know what a Thousand Talents is?

13 A. I do. It --

14 Q. Please just generally describe that to the
15 jury.

16 A. It's a Chinese government-sponsored recruitment
17 program attempting to acquire U.S. science and
18 technology and transfer it back to China to aid their --
19 the Chinese military and economy.

03:42PM 20 Q. And so when you presented that to the
21 defendant, what, if anything, did he say?

22 A. When I showed him the printout, he said he was
23 not a member of that talent plan and he called them
24 cheaters.

25 Q. So after that, did you show the defendant any

DIRECT EXAMINATION - KUJTIM SADIKU

1 other documents?

2 A. I did, yes.

3 Q. And did the defendant respond in any way that
4 you can recall?

5 A. Yes, he -- I showed him a printout of a
6 translated page from a Chinese web page that listed him
7 as a speaker at a conference in China, and he was -- I
8 think it -- I think it was sponsored or -- the printout
9 was a -- I showed him a printout of a conference held in
03:43PM 10 China where he was listed as a speaker at a conference
11 and it referenced the Beijing University of Technology.

12 Q. And what, if anything, did he tell you about
13 that?

14 A. That it was a short-term talent plan and it was
15 different than the Thousand Talents Plan, and it was, I
16 believe, two weeks long and it was just he attended the
17 conference.

18 Q. Did he tell you where he first heard about that
19 program?

03:44PM 20 A. He did.

21 Q. What did he say?

22 A. He said that he first heard about the program
23 at a -- somewhere in Florida. I believe it was a
24 conference from a representative of the Beijing
25 University of Technology.

DIRECT EXAMINATION - KUJTIM SADIKU

1 Q. Now, during the interview, did the defendant
2 discuss with you his travels to China?

3 A. Yes.

4 Q. What, if anything, do you recall about what he
5 said?

6 A. As I recall, during the interview, he told me
7 that he had a trip planned to China and he was going to
8 go speak at a conference in China.

03:44PM 9 Q. Did he mention anything about previous trips to

10 China?

11 A. I don't understand. Can you repeat?

12 Q. I'm just curious. Did he mention any previous
13 trips to China?

14 A. Yes, he did.

15 Q. Did he indicate whether he was paid for those
16 trips?

17 A. I believe he -- he said he was paid and he
18 described them as being tips.

19 Q. Did he indicate any dollar amount?

03:45PM 20 A. \$100, \$200.

21 Q. All right. Going back to his employment with
22 the University of Tennessee. Did he tell you whether or
23 not he was a full-time employee?

24 A. Yes, he did.

25 Q. Did he say anything else about the time frame

DIRECT EXAMINATION - KUJTIM SADIKU

1 of his employment at the university?

2 A. Yes. He told me that he was employed at the
3 University of Tennessee as a member of the faculty for
4 nine months and he had the summers off to do what he
5 wanted.

6 Q. Did he indicate any view as to whether or not
7 it would be okay to work for a China program and
8 University of Tennessee?

9 A. Yes, he did.

03:46PM 10 Q. What did he say?

11 A. He said that if he worked for another
12 organization that he would have to report it.

13 Q. Did he describe any -- any potential
14 consequences that he was aware of for not reporting it?

15 A. Yes. He said that if he didn't report it, he
16 could be terminated from employment at UT.

17 Q. Do you recall approximately how long this
18 interview lasted?

19 A. I would say about approximately one hour.

03:46PM 20 Q. And so after that interview, did you correspond
21 at all with the defendant?

22 A. Yes, I did.

23 Q. And how did you correspond with the defendant?

24 A. I corresponded with him via email.

25 Q. Do you recall how many emails you two

DIRECT EXAMINATION - KUJTIM SADIKU

1 exchanged?

2 A. Two or three.

3 Q. If you recall, will you tell the jury what the
4 general substance of those emails were.

5 A. During the interview that I conducted, he told
6 me about his trip that he had planned to go to China,
7 and I had asked him to meet after he would come back,
8 and he sent me the -- a link to the conference that he
9 was going to attend, and in the email, he stated that he
03:47PM 10 decided he was not going to attend the conference.

11 Q. In those email communications, did he indicate
12 to you that he was working on any NASA projects?

13 A. Yes, he did.

14 Q. Do you recall what he said?

15 A. I think he said two NASA projects.

16 Q. Now, going back to the conference that you just
17 mentioned, if you know, did the defendant attend that
18 conference?

19 A. I do not know.

03:47PM 20 Q. Did you ask him to attend that conference?

21 A. I did not.

22 Q. Okay. So moving forward in the investigation,
23 did you at some point meet with officials with the
24 University of Tennessee?

25 A. Yes, I did.

DIRECT EXAMINATION - KUJTIM SADIKU

1 Q. Why did you do that?

2 A. Well, in the course of the investigation, I had
3 the information of the talent plan and there was
4 information that I didn't have. I had questions on
5 certain aspects of policies at the University of
6 Tennessee that I did not know.

7 Q. Did you wish to obtain any documents?

8 A. Yes, I did.

03:48PM 9 Q. And did you ever ask the university to provide

10 any documents?

11 A. Yes, I did.

12 Q. In general terms, what kind of documents did
13 the university provide you?

14 A. The university provided conflict of interest
15 forms, emails.

16 Q. Now, why did you ask for those types of
17 documents?

18 A. Prior to asking for those documents, I
19 conducted research and found that he had reported in his
03:49PM 20 publications that he was affiliated with the Beijing
21 University of Technology.

22 Q. Now, prior to this investigation, did you have
23 a lot of experience and knowledge in the grant process
24 for U.S. government agencies?

25 A. I did not.

DIRECT EXAMINATION - KUJTIM SADIKU

1 Q. Did you have a lot of experience with
2 university conflict of interest policies?

3 A. I did not.

4 Q. Were you familiar with the way in which
5 universities go about engaging with sponsoring proposals
6 and contracts with government agencies?

7 A. I was not.

8 Q. Now I'd like to direct your attention to July
9 2019. Did you meet with university officials in
03:49PM 10 July 2019?

11 A. Yes, I did.

12 Q. What was the purpose of that meeting?

13 A. The purpose was -- I mean, two-fold,
14 essentially; to provide information and an update on my
15 investigation, also to ask the university questions that
16 I didn't have the answers to.

17 Q. And did you have additional meetings with
18 university personnel?

19 A. Yes, I did.

03:50PM 20 Q. Did one such meeting occur in August 2019?

21 A. Yes, it did.

22 Q. Was there another in September 2019?

23 A. Yes, there was.

24 Q. Now, at those three meetings, the one in July,
25 the one in August, and the one in September, did you

DIRECT EXAMINATION - KUJTIM SADIKU

1 provide any PowerPoint presentations at these meetings?

2 A. I -- yes, I did.

3 Q. Now, did you create the PowerPoint
4 presentations?

5 A. Yes, I did.

6 (Government's Exhibit 10-O was marked for
7 identification.)

8 BY MR. ARROWOOD:

9 Q. I'd like to show you what's been marked as
03:50PM 10 Government's Exhibit 10-O.

11 Do you recognize this document?

12 A. Yes, I do.

13 Q. What is it?

14 A. It is the cover page of the PowerPoint
15 presentation that I made for that meeting on July 18th,
16 2019.

17 MR. ARROWOOD: At this time, the government
18 moves to admit Government's Exhibit 10-O.

19 THE COURT: Without objection, so admitted.

20 (Government's Exhibit 10-O was received into
21 evidence.)

22 (Government's Exhibit 10-P was marked for
23 identification.)

24 BY MR. ARROWOOD:

25 Q. All right. Now I'd like to show you what's

DIRECT EXAMINATION - KUJTIM SADIKU

1 been marked as Government's Exhibit 10-P.

2 Do you recognize this document?

3 A. Yes, I do.

4 Q. What is it?

5 A. It is a cover page that I produced of the
6 PowerPoint presentation that I gave to the University of
7 Tennessee on August 30th, 2019.

8 MR. ARROWOOD: Your Honor, I move to admit
9 Government's Exhibit 10-P.

03:51PM 10 THE COURT: So admitted.

11 (Government's Exhibit 10-P was received into
12 evidence.)

13

14 (Government's Exhibit 10-Q was marked for
15 identification.)

16 BY MR. ARROWOOD:

17 Q. All right. Now I'd like to also show you
18 Government's Exhibit 10-Q.

19 Do you recognize this document?

03:52PM 20 A. Yes, I do.

21 Q. What is it?

22 A. It is the cover page of the PowerPoint
23 presentation that I put together that I provided at a
24 meeting with the University of Tennessee administration
25 on September 17th, 2019.

DIRECT EXAMINATION - KUJTIM SADIKU

1 MR. ARROWOOD: Will you just scroll down,
2 April.

3 BY MR. ARROWOOD:

4 Q. I want to show you it's not just simply the
5 title page, but it's --

6 MR. ARROWOOD: All right. Scroll back up,
7 please.

8 BY MR. ARROWOOD:

9 Q. Does this appear to be the entire PowerPoint
03:52PM 10 presentation for that?

11 A. Yes, it does.

12 MR. ARROWOOD: At this time, the government
13 asks to admit Government's Exhibit 10-Q.

14 THE COURT: So admitted.

15 (Government's Exhibit 10-Q was received into
16 evidence.)

17 MR. ARROWOOD: You can take it off.

18 BY MR. ARROWOOD:

19 Q. Now, let's talk about these PowerPoints for
03:52PM 20 just a moment. What was the purpose of these PowerPoint
21 presentations?

22 A. There was a lot of information that I had
23 collected and my goal was to share that information with
24 the University of Tennessee because alone, I wasn't able
25 to verify it, so I had questions that the university had

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1 more knowledge on the information. So it was an
2 information-sharing session, if you will, with questions
3 and answers.

4 Q. And so what type of material did you rely upon
5 in putting that PowerPoint presentation together?

6 A. Open-source Google searches, summary
7 translations of emails, summary translations of
8 websites.

9 Q. Did you use some of the material that had been
03:53PM 10 provided to you by the university?

11 A. That's correct, I did.

12 Q. I believe you may have just mentioned that some
13 of that material was in a foreign language.

14 A. That's correct.

15 Q. And was it in Chinese?

16 A. Yes.

17 Q. Do you speak Chinese?

18 A. I do not.

19 Q. Do you speak any other foreign languages?

03:53PM 20 A. I do.

21 Q. What do you speak?

22 A. I speak Albanian.

23 Q. How did you learn Albanian?

24 A. My parents are from Albania and that's the
25 language I learned before I went to school.

DIRECT EXAMINATION - KUJTIM SADIKU

1 Q. So earlier you talked about -- I believe you
2 said summary translations; is that what you said before?

3 A. Correct.

4 Q. Would you please describe for the jury, what is
5 a summary translation?

6 A. So, it's a translation of a document in a
7 foreign language, and it is not accurate in its
8 entirety; it's just a summary of the document.

03:54PM 9 Q. And are summary translations performed by FBI

10 linguists?

11 A. Yes, that's correct.

12 Q. Now, did you also use machine translations?

13 A. I did, yes.

14 Q. Please describe for the jury, what is a machine
15 translation?

16 A. I mean, if you use Google as a search engine
17 and you can put in text from a foreign language and
18 translate it and the result is the Google translation.

03:55PM 19 Q. Now, in terms of the content in the -- in these
20 presentations, what was your understanding when you

21 drafted it of the purpose for the entries on the slides?

22 A. Well, I had a number of documents, I mean,
23 hundreds, that I wasn't exactly -- I didn't understand
24 them all. So I created an outline, if you will, of the
25 notes and the talking points that I wanted to go through

DIRECT EXAMINATION - KUJTIM SADIKU

1 and ask any questions that I had and also provide
2 information that I had found to the university.

3 Q. Other than these three PowerPoint presentations
4 that we talked about, July 2019, August and
5 September 2019, did you present any other PowerPoint
6 presentations that you recall to the university?

7 A. Yes, I did.

8 Q. And when was that? If you recall.

9 A. It was after the third PowerPoint presentation.
03:56PM 10 I don't remember the date.

11 Q. All right. In the summer months of 2019,
12 again, July, August, and September, had you formed any
13 conclusions about the investigation at that time?

14 A. No, I didn't.

15 Q. Do you recall when the Grand Jury returned an
16 indictment in this case?

17 A. Yes, I do.

18 Q. Do you recall the month and year that that
19 happened?

03:56PM 20 A. February 2020.

21 Q. So several months later?

22 A. Yes.

23 Q. Okay. I'd like to switch topics with you.

24 Do you recall precisely which day the defendant
25 was arrested?

DIRECT EXAMINATION - KUJTIM SADIKU

1 A. Yes, I do.

2 Q. What day was that?

3 A. February 27, 2020.

4 Q. And after the defendant was arrested, was he
5 initially taken to jail?

6 A. No, he was not.

7 Q. Where was he taken?

8 A. He was taken to the FBI office for processing.

9 Q. And thereafter, where did he go?

03:57PM 10 A. We took him to the U.S. marshals awaiting his
11 initial appearance.

12 Q. Did he have a court hearing that day?

13 A. Yes, he did.

14 Q. After court, did the defendant go to jail after
15 that?

16 A. No, he did not. I misspoke. Yes, he went to
17 jail until -- I think for eight or nine days, yes.

18 Q. He was ultimately released on conditions,
19 wasn't he?

03:57PM 20 A. Yes, he was.

21 Q. Do you happen to know whether the defendant
22 made any telephone calls while he was in jail?

23 A. Yes, he did.

24 Q. How do you know that?

25 A. I read the translations that were from the

DIRECT EXAMINATION - KUJTIM SADIKU

1 audio calls that were recorded at the Blount County
2 jail.

3 Q. Okay. So were these jail calls recorded?

4 A. Yes, they were.

5 Q. Were they recorded by the jail?

6 A. Yes.

7 Q. And so at a certain point in this
8 investigation, were you able to obtain those recorded
9 telephone calls?

03:58PM 10 A. Yes.

11 Q. And did you listen to them?

12 A. I did, yes.

13 Q. When you listened to them, were some of them in
14 Chinese?

15 A. Yes, they were.

16 Q. So then what, if anything, did you do with
17 those recorded jail calls?

18 A. I submitted a request to have these calls
19 translated. So I submitted that request and a
03:58PM 20 translator was signed and translated the documents and
21 provided summary translations to me.

22 Q. So these were the summary translations; is that
23 right?

24 A. That's correct.

25 Q. And so based on a review of the summary

DIRECT EXAMINATION - KUJTIM SADIKU

1 translations, did you provide any of the calls to a
2 linguist for the full translation?

3 A. Yes, I did.

4 Q. Do you recall how many of those calls you
5 provided?

6 A. Three; three calls.

7 Q. I'd like to show you what's been previously
8 conditionally admitted as Government's Exhibit 10-B.

9 Do you see the file name on the top left-hand
03:59PM 10 corner?

11 A. Yes, I do.

12 Q. Have you listened to the audio file identified
13 by file name on the screen?

14 A. Yes, I have.

15 Q. And was it one of the jail calls involving the
16 defendant that you had listened to previously?

17 A. Yes, it was.

18 MR. ARROWOOD: Your Honor, at this time, the
19 government moves to fully admit Government's
03:59PM 20 Exhibit 10-B and 11-A.

21 THE COURT: Without objection, so admitted.

22 BY MR. ARROWOOD:

23 Q. I'd like to show you Government's Exhibit 11-A.

24 MR. ARROWOOD: Go to page 2.

25

DIRECT EXAMINATION - KUJTIM SADIKU

1 BY MR. ARROWOOD:

2 Q. Do you recognize this document?

3 A. Yes, I do.

4 Q. Is it one of the transcripts of the jail calls?

5 A. Yes, it is.

6 Q. This is in English; right?

7 A. That's correct.

8 Q. Okay. Who are the participants in this call?

9 A. The participants in this call are Anming Hu and
04:00PM 10 David Hu.

11 MR. ARROWOOD: Okay. Will you please scroll
12 up.

13 BY MR. ARROWOOD:

14 Q. All right. I'd like you to --

15 MR. ARROWOOD: Stop. Go back.

16 BY MR. ARROWOOD:

17 Q. I'd like you to begin reading for the jury
18 right here (indicating).

19 And, again, before you do that, is -- the
04:00PM 20 individual identified with the initials AH, do you know
21 who that is?

22 A. Yes. It's Anming Hu.

23 Q. And who was the individual identified with HU?

24 A. David Hu.

25 Q. Who is David Hu, if you know?

DIRECT EXAMINATION - KUJTIM SADIKU

1 A. I believe it's Anming Hu's son.

2 Q. All right. Would you please just read, again,
3 beginning with the, "So, uh..." all the way to,
4 "Alright."

5 A. (As read) "So, uh, you need to contact your
6 mother. It is best to...to these people. (Door
7 banging). She can look them up online. It is best to
8 send an email to the department head, and Matthew Mench,
9 formerly...and also to our college dean, uh, better yet
04:01PM 10 also the vice university president, to represent me, to
11 say" -- "to say that my husband says, says, uh, uh, that
12 he does not have any position in China. Say
13 this...represent me because they, within 48 hours, from
14 yesterday to today...We need to say this. Okay?"

15 Q. Please continue.

16 A. So David Hu responds: "48 hours, say what?
17 You..."

18 Anming Hu responds: "You need to say that I
19 don't hold a position in China."

04:02PM 20 David Hu responds: "Ah, okay."

21 Anming Hu responds: "Okay? This is extremely
22 crucial."

23 David Hu responds: "Alright."

24 Q. Thank you.

25 I'd now like to show you what's been previously

DIRECT EXAMINATION - KUJTIM SADIKU

1 conditionally admitted as Government's Exhibit 10-C.

2 Please take a look at the file number on the
3 top left-hand portion of the screen. Do you see that
4 file name?

5 A. Yes, I do.

6 Q. Have you listened to the audio file identified
7 by file name on the screen?

8 A. Yes, I have.

9 Q. Was it one of the recorded jail calls involving
04:02PM 10 the defendant that you had listened to previously?

11 A. Yes, it was.

12 MR. ARROWOOD: All right. At this time, the
13 government moves to fully admit Government's
14 Exhibit 10-C and the associated translation,
15 Government's Exhibit 11-B.

16 THE COURT: So admitted.

17 BY MR. ARROWOOD:

18 Q. I'd like to show you Government's Exhibit 11-B.

19 MR. ARROWOOD: Please go to page 2.

04:03PM 20 Scroll down just a little bit. Stop.

21 BY MR. ARROWOOD:

22 Q. Okay. Please read for the jury beginning here
23 (indicating).

24 Oh, and -- I'm sorry. Before you do so, again,
25 on the left-hand side of the screen are the initials AH.

DIRECT EXAMINATION - KUJTIM SADIKU

1 Do you know who AH represents?

2 A. Yes, I do.

3 Q. Who is it?

4 A. Anming Hu.

5 Q. And I also see a participant HU. Do you know
6 who that is?

7 A. Yes, I do.

8 Q. Who is that?

9 A. That is David Hu.

04:03PM 10 Q. Okay. Again, please read from where I've
11 indicated here on the screen, "Hey, son."

12 A. "Hey, son. Uh, that, I, because there is a
13 telephone in here, so, uh...I can make phone calls. So,
14 did you tell your mom?"

15 David Hu responds: "Yeah, her...She, she
16 should --"

17 Anming Hu responds: (As read) "Ah, you go
18 ahead."

19 David Hu responds: "Okay, could you explain,
04:04PM 20 like, what do they need you to do within 48 hours?"

21 Anming Hu responds: (As read) "This, this
22 48-hour...They need me" -- I'm sorry, I'll start over.

23 Anming Hu responds: (As read) "This, this
24 48-hour...They need...If I don't respond, they
25 will -- they will consider I give up by default. That

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1 means, if you don't provide an explanation, you are
2 relinquishing the position. They will then
3 automatically, ter -- uh, terminal you. You need to
4 say --"

5 David Hu responds: (As read) "Okay."

6 Anming Hu responds: (As read) "You know? You
7 need to send a mes--" -- "you need to send a, send a
8 message so they know your response. Because I am in
9 jail the entire, entire time, I do not have any chance
04:04PM 10 to...and I can't make" -- "and I can't make
11 long-distance calls to your mom. You know? I can only
12 call you."

13 David Hu responds: "Yeah."

14 Anming Hu responds: "Okay, yeah."

15 David Hu responds: "Yeah."

16 Anming Hu responds: (As read) "Okay, so
17 you" -- "so you need to tell your mom. You...haven't
18 you told your mom yet?"

19 David Hu responds: "I told mom this. She
04:05PM 20 needs to --"

21 Anming Hu responds: (As read) "Yes."

22 Q. Continue.

23 A. David Hu responds: "Yes, mom asked me, like,
24 if she represents you in the response, then she, like,
25 if she says it wrong, or something then, won't that be a

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1 problem?"

2 Anming Hu responds: "It is not a big deal.

3 That is just to say, you just say, let mom say that your
4 dad says he does not hold a position in China. Just say
5 this one sentence."

6 David Hu responds: "Okay."

7 Anming Hu responds: "Right."

8 David Hu responds: "Alright."

9 Anming Hu responds: "Then, I am the one who
04:06PM 10 says it, not mom, about this, because mom is not
11 familiar with the situation anyway, okay? Just that,
12 let me --"

13 David Hu responds: (As read) "Okay."

14 Q. Okay. I'd like to show you Government's
15 Exhibit 10-D, as in dog. Please take a look at the
16 left-hand -- top left-hand side of the screen. Do you
17 recognize that file name?

18 A. Yes, I do.

19 Q. Have you listened to the audio file identified
04:06PM 20 by the file name on the screen?

21 A. Yes, I have.

22 Q. Was it one of the recorded jail calls involving
23 the defendant that you listened to previously?

24 A. Yes, it was.

25 Q. Now --

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1 MR. ARROWOOD: At this time the government
2 moves to fully admit Government's Exhibit 10-D and the
3 associated translation, Government's Exhibit 11-C.

4 THE COURT: So admitted.

5 (Government's Exhibit 10-D was received into
6 evidence.)

7 BY MR. ARROWOOD:

8 Q. I'd like to show you Government's Exhibit 11-C.

9 MR. ARROWOOD: And stop right there, if you
04:07PM 10 will.

11 BY MR. ARROWOOD:

12 Q. And in this particular document, again, on the
13 left-hand side, do you know who is indicated by the
14 initials AH?

15 A. Yes, I do.

16 Q. Who is that?

17 A. It is Anming Hu.

18 Q. And then the initials HU, do you know who that
19 is?

04:07PM 20 A. Yes, I do.

21 Q. Who is that?

22 A. That is David Hu.

23 MR. ARROWOOD: Please go down to page 4.

24 BY MR. ARROWOOD:

25 Q. And just read those two for the jury, please

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1 (indicating).

2 A. Anming Hu says: "They want to get our money by
3 imposing fines. Because, right now, we need to resolve
4 all of this first before addressing the UTK matter. You
5 know? Did your mom send email to UTK?"

6 David Hu responds: "Um-hum. Yeah, it was
7 sent, but they didn't...They didn't respond,
8 whatsoever."

9 Q. Based on your investigation, do you happen to
04:08PM 10 know whether or not David Hu's mother ever sent an email
11 to the University of Tennessee personnel?

12 A. Yes.

13 (Government's Exhibit 10-R was marked for
14 identification.)

15 BY MR. ARROWOOD:

16 Q. I'd like to show you what's been marked as
17 Government's Exhibit 10-R.

18 Do you recognize this document? Sorry.

19 MR. ARROWOOD: Scroll down, please.

04:09PM 20 BY THE WITNESS:

21 A. Can you repeat the question?

22 BY MR. ARROWOOD:

23 Q. Do you recognize this document?

24 A. Yes, I do.

25 Q. Who is the individual identified in the From

CROSS-EXAMINATION - KUJTIM SADIKU

1 line on this email?

2 A. The individual is Ivy Yang.

3 Q. And when was this email sent?

4 A. The email was sent on February 28th, 2020.

5 Q. Will you please read the first paragraph and
6 then that final line right here (indicating).

7 A. (As read) "To whom it may concern: My name is
8 Yi Yang, ex-spouse of Anming Hu. I was informed and
9 shocked that Anming Hu was arrested yesterday. Anming
04:09PM 10 Hu is not able to send this message to the college due
11 to his current situation. Through calling my son David,
12 Anming asks" -- "asked me to help send this message to
13 you on his behalf that: He doesn't hold any position in
14 China."

15 Q. Thank you.

16 MR. ARROWOOD: No further questions, Your
17 Honor.

18 Oh, Your Honor, if I may, I don't think I
19 admitted that exhibit into evidence. So if I would,
04:10PM 20 please, move Government's Exhibit 10-R into evidence.

21 THE COURT: 10-R is admitted.

22 (Government's Exhibit 10-R was received into
23 evidence.)

24 MR. ARROWOOD: Thank you, Your Honor.

25

CROSS-EXAMINATION - KUJTIM SADIKU

1 CROSS-EXAMINATION

2 BY MR. LOMONACO:

3 Q. Agent Sadiku, good afternoon.

4 THE COURT: Cross-examination.

5 BY MR. LOMONACO:

6 Q. Can you hear me okay?

7 A. Yes.

8 Q. Professor Hu was concerned about losing his job
9 in those telephone jobs, wasn't he?

04:10PM 10 MR. ARROWOOD: Objection, Your Honor, calls for
11 speculation as to the defendant's state of mind.

12 BY MR. LOMONACO:

13 Q. He was talking about losing his job, wasn't
14 he --

15 MR. LOMONACO: I'll withdraw that question.

16 BY MR. LOMONACO:

17 Q. -- right?

18 A. Can you repeat the question?

19 Q. He was talking about losing his job; right?

04:11PM 20 With his son and his wife -- or his son.

21 A. Yes, that's what it appears to be.

22 Q. That's what it appears to be.

23 And he had his son try to get a hold of his mom
24 to call the university and say that he didn't hold a
25 position --

CROSS-EXAMINATION - KUJTIM SADIKU

1 A. Yes.

2 Q. -- right?

3 A. Yes.

4 Q. And he didn't hold a position, did he?

5 A. I don't understand your question.

6 Q. The question is: He had two contracts with
7 Beijing University, and the last contract that was in
8 effect expired in December of 2018; isn't that right?

9 A. I don't recall.

04:11PM 10 Q. Okay. Well, aren't you the investigator?

11 Aren't you supposed to know those things?

12 MR. LOMONACO: It's argumentative. I'm sorry.

13 BY MR. LOMONACO:

14 Q. Do you recall there was two contracts?

15 A. Which ones?

16 Q. From Beijing University --

17 A. Yes.

18 Q. -- with Dr. Hu.

19 A. Yes.

04:12PM 20 Q. And one had a signature on it, and the date
21 that it expired was December 2018; do you recall that?

22 A. I don't remember the date, but I do remember
23 the contract.

24 MR. LOMONACO: Pull it up.

25

CROSS-EXAMINATION - KUJTIM SADIKU

1 BY MR. LOMONACO:

2 Q. While we're looking for that, why did -- what's
3 the significance of you telling the jury about these
4 phone calls that he had with his son about telling his
5 wife to tell UT that he doesn't have a position?

6 MR. ARROWOOD: Objection, Your Honor. It's
7 asking for the significance. He's here just to talk
8 about the facts.

9 MR. LOMONACO: Okay. I'll withdraw. I
04:13PM 10 apologize if I keep asking these questions I have to
11 withdraw.

12 THE COURT: That's all right. Keep going.

13 MR. LOMONACO: Practice a little bit more.

14 BY MR. LOMONACO:

15 Q. Do you see this on the screen, Exhibit 11-Q
16 (indicating)? I think it's your exhibit.

17 If it hasn't been admitted, I'd ask that it be
18 admitted for the government. Do you see that?

19 A. Yes.

04:13PM 20 Q. Okay. Is this an Employment Contract For
21 High-Level Talents, Beijing University, Short-Term;
22 correct?

23 A. Yes, I see that.

24 MR. LOMONACO: Okay. Scroll down. Keep going.

25

CROSS-EXAMINATION - KUJTIM SADIKU

1 BY MR. LOMONACO:

2 Q. Do you see where the contract term says this
3 term of this contract is three years beginning on
4 January 1st, 2016, and ending on day of December 31st,
5 2018?

6 A. Yes, I see that.

7 Q. Does that refresh your memory about how long he
8 had employment under this contract?

9 A. According to this contract, yes.

04:14PM 10 Q. Do you have any other contracts that show that
11 he had further employment under contract?

12 A. I don't understand your question. Contract
13 with who?

14 Q. Beijing University.

15 A. Yes.

16 Q. Okay. What is it?

17 A. A contract with the Beijing University of
18 Technology.

19 Q. What exhibit is it?

04:14PM 20 A. I don't know.

21 Q. Are you talking about the one that looks like
22 this but is not signed?

23 A. Can you scroll to the top, please?

24 Q. Is that the contract you're talking about?

25 A. What's the date on this contract?

CROSS-EXAMINATION - KUJTIM SADIKU

1 Q. I'm sorry? What's the date?

2 A. Yes.

3 Q. Okay. Here it is right here. January 1, 2019,
4 to December 31st, 2021.

5 A. Yes, I see that.

6 Q. That's the contract.

7 MR. LOMONACO: Okay. Let's go to the bottom.

8 That's the old contract. Let's use their
9 exhibit.

04:15PM 10 MR. ARROWOOD: Your Honor, the defendant is
11 showing the wrong exhibits.

12 MR. LOMONACO: Yes, we've already cleared up
13 that this --

14 MR. ARROWOOD: Maybe we should just show our
15 exhibits.

16 THE COURT: Do you want to show the
17 government's exhibits? That might be easier.

18 Mr. Lomonaco, pull that microphone -- that
19 one (indicating) -- back toward the middle. Thank you.

04:15PM 20 MR. LOMONACO: Thank you.

21 THE COURT: All right. Could the government
22 assist with -- what are you trying to show him right
23 now?

24 MR. LOMONACO: I'm trying to show the contract
25 for 2019 to 2021 that the government has that the

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1 linguist -- or translated and said it wasn't signed.

2 MR. PARSONS: 11-L.

3 THE COURT: All right. 11 what?

4 MR. PARSONS: L.

5 THE COURT: All right. Government's 11-L. If
6 the government would assist in putting that on the
7 screen.

8 All right. Here is Government's Exhibit 11-L.
9 Go ahead.

04:16PM 10 MR. LOMONACO: Thank you.

11 Can we go to the bottom of that page, please,
12 or the contract.

13 BY MR. LOMONACO:

14 Q. Okay. Do you see that it's not signed?

15 A. Yes, it doesn't appear to be signed.

16 Q. And just so I'm sure and I'm clear and the jury
17 is clear, there is no valid signed contract for these
18 dates; correct?

19 MR. ARROWOOD: Objection, Your Honor. It calls
04:16PM 20 for a legal conclusion.

21 BY MR. LOMONACO:

22 Q. That you know of.

23 THE COURT: Well, I think if you remove the
24 word "valid" -- that's the legal conclusion -- I don't
25 think there would probably be an objection. "Is there a

CROSS-EXAMINATION - KUJTIM SADIKU

1 signed document?"

2 BY MR. LOMONACO:

3 Q. Do you have any signed document with these
4 dates on it?

5 A. I don't recall.

6 Q. Okay. Do you recall a few days ago we went
7 through the fact that there was evidently one proffer
8 that was signed and then it was withdrawn as inaccurate?
9 Do you recall that?

04:17PM 10 A. I don't understand your question.

11 Q. Okay. Let me ask you this: When was of the
12 last time that Anming Hu was in China?

13 A. I don't know.

14 Q. You've been carrying around his passport for
15 the last three days. We've been asking you for a copy
16 of it so we can see the last time he went to China and
17 you don't know?

18 A. That's correct.

19 Q. You don't know. Would 2017 ring a bell?

04:17PM 20 A. I don't know.

21 Q. You know you're under oath, don't you, Agent
22 Sadiku?

23 A. I don't remember the documents and the dates on
24 his passports.

25 Q. His passport, his Canadian passport, you've had

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1 it every day this week; right?

2 A. That's correct. Per your request, yes.

3 Q. Yes.

4 A. Correct.

5 Q. And we still asked you to make a copy of it for
6 two days and you haven't produced a copy of it yet;
7 right?

8 MR. ARROWOOD: Objection, Your Honor. It's
9 argumentative.

04:18PM 10 THE COURT: What's the next question,
11 Mr. Lomonaco? Let's see if there is an objection.

12 MR. LOMONACO: I'm sorry, Your Honor?

13 THE COURT: What's your question?

14 MR. LOMONACO: I guess I already asked it.

15 THE COURT: Okay. Let's go on then.

16 BY MR. LOMONACO:

17 Q. Can we get the passport now?

18 A. Yes.

19 Q. Where is it?

04:18PM 20 A. It's with an FBI agent in the room.

21 THE COURT: Do you want the witness to have the
22 passport, or do you want the passport --

23 MR. LOMONACO: I'd like to show --

24 THE COURT: Apparently you now have it in your
25 hands. So --

CROSS-EXAMINATION - KUJTIM SADIKU

1 MR. LOMONACO: Yes, I have the passport.

2 THE COURT: We can put it on the screen if we
3 need to.

4 BY MR. LOMONACO:

5 Q. Agent Sadiku, do you know how to read these
6 passports?

7 THE COURT: Go ahead and show it, Julie.

8 BY THE WITNESS:

9 A. Can you zoom out? I can't see the entire page.

04:19PM 10 BY MR. LOMONACO:

11 Q. Pardon me?

12 A. Can you zoom out?

13 Q. Do you know how to read these passports?

14 A. Yes.

15 Q. Okay. What does a square mean compared to a
16 circle?

17 A. I don't know.

18 Q. Can I show you this passport and can you -- if
19 I -- if I show you this passport, can you show me the
04:20PM 20 last time he went to China and left?

21 A. I rely on information through a tech system
22 that identifies when travelers enter and exit the United
23 States, and during this search after arrest of Anming
24 Hu, we found more than one passport at his residence.
25 So I cannot answer your question.

CROSS-EXAMINATION - KUJTIM SADIKU

1 Q. Are you saying that you found two passports for
2 Anming Hu or more than one?

3 A. There was expired passports.

4 Q. Well, expired would be before this one;
5 correct?

6 A. If one existed for this country, yes.

7 Q. An expired one would be maybe his old passport
8 before he became a Canadian citizen; is that one of
9 them?

04:21PM 10 A. Perhaps.

11 Q. Well, that wouldn't show the last time he was
12 in China, would it?

13 A. I don't know.

14 Q. If I showed you this passport -- let me ask it
15 again -- can you find the latest, most-recent stamp that
16 shows he was in China?

17 A. No.

18 Q. Pardon me?

19 A. No, I wouldn't rely on that document.

04:21PM 20 Q. You wouldn't rely on a passport?

21 A. Which -- I'd need to see which passport it was.

22 Q. Well, can he have it back since you won't rely
23 on it?

24 Let me go on.

25 Do you know how much money he made in China?

1 A. I don't.

2 Q. Has anybody put together a calculation, or do
3 you have any evidence of how much money he made working
4 part-time at Beijing University during the summer?

5 A. I don't know that he made any money in China.

6 Q. Now, you said that he told you he had to report
7 his summer jobs or he would be in trouble. You
8 testified to that a few minutes ago. I'm sure it wasn't
9 exactly that way, but that's what I managed to write
04:22PM 10 down. Do you recall making that statement?

11 A. What was the statement?

12 Q. That he told you in that initial interview that
13 if he had a job, he would be in trouble. Something to
14 that. Repeat what you said, if you would, please.

15 A. I don't understand your question. A job with
16 who and trouble with what?

17 Q. You seem to be able to remember the answer when
18 the U.S. attorney asks you the question.

19 Do you recall the question when he said, "What
04:23PM 20 did he tell you about a job in China?" Do you recall
21 your answer?

22 A. I recall the question was in reference to my
23 report that I wrote up when I conducted the interview of
24 Anming Hu.

25 Q. Yes.

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1 A. Yes.

2 (Defendant's Exhibit 39 was marked for
3 identification.)

4 MR. LOMONACO: Your Honor, I'd ask that
5 Exhibit 39 --

6 BY MR. LOMONACO:

7 Q. Do you recognize this report here, Agent
8 Sadiku?

9 A. Yes.

04:24PM 10 MR. LOMONACO: And I move to admit Exhibit 39,
11 please. He said he recognized it, Your Honor.

12 THE COURT: I'm waiting for a response from the
13 government.

14 MR. LOMONACO: Oh, I didn't know they were
15 talking.

16 MR. ARROWOOD: No objection, Your Honor.

17 THE COURT: All right. So admitted.

18 What was the number again? 39?

19 MR. LOMONACO: 39, Your Honor.

04:24PM 20 THE COURT: Defendant's 39.

21 (Defendant's Exhibit 39 was received into
22 evidence.)

23 BY MR. LOMONACO:

24 Q. Now, you and Agent -- DOE Agent Laura Slatton
25 dropped in on Anming Hu while he was at work and took

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1 this interview; correct?

2 A. We interviewed him at his office on -- in
3 October -- or, I mean -- I'm sorry -- April 2018.

4 Q. Yes. And you interviewed him. You didn't
5 record the conversation.

6 A. No.

7 Q. So these notes are basically -- or these --
8 this statement here is basically what you believe he
9 said and what you were willing to put down on paper;
04:25PM 10 right?

11 A. This document appears to be a letterhead
12 memorandum regarding the case. I don't know if it is.

13 Q. Well, did you write it?

14 A. Can you scroll to the bottom?

15 Yes.

16 Q. Okay. Paragraph U, "During" -- they're all U,
17 aren't they?

18 Third paragraph from the bottom or second from
19 the top -- let me read it -- "During the summer, Hu has
04:26PM 20 three months that is his" -- quote -- "'free time'" --
21 quote -- "to go anywhere and allows for academic
22 exchanges." Do you see that?

23 A. Yes.

24 Q. "The other nine months of the year he is under
25 contract with UTK and not permitted to work anywhere

CROSS-EXAMINATION - KUJTIM SADIKU

1 else without disclosing it to UTK." Right?

2 A. Yes.

3 Q. So he's talking about during his academic year,
4 he would not be able to work anyplace else without
5 disclosing it; right?

6 A. Working where and disclosing to who?

7 Q. Anywhere to anyone.

8 A. That is my written report, yes. I did write
9 those words based on the information he told me, but I
04:27PM 10 don't understand your question.

11 Q. The question is: When you testified, you said
12 just work anywhere; you didn't say during the summer or
13 during the academic year.

14 A. My understanding of the information he provided
15 when I interviewed him in April 2018 is that he was on a
16 nine-month contract at the University of Tennessee and
17 he was free to engage in other employment during the
18 summer.

19 Q. Okay. Have you -- well, you don't recall his
04:27PM 20 trips to and from China, do you?

21 A. I don't.

22 Q. Do you recall any trips to China during his
23 academic year when he's supposed to be working at UT?

24 A. I don't remember.

25 Q. Now, you said that you couldn't verify some

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1 information, so you put it in a PowerPoint; is
2 that -- that doesn't make sense to me. If you're trying
3 to verify information, why would you put unverified
4 information in a PowerPoint?

5 A. If you're referring to the PowerPoints that I
6 provided to the University of Tennessee --

7 Q. Yes.

8 A. -- I used a PowerPoint program to write out an
9 outline of the information that I was providing and the
04:28PM 10 questions that I didn't have the answers to and wanted
11 to ask the University of Tennessee.

12 Q. Agent Sadiku, let me just settle down here and
13 just ask some questions.

14 Professor Hu is accused of willfully and
15 knowingly hiding his affiliations and collaborations
16 with BJUT in order to get a NASA grant; correct?

17 A. Can you repeat that?

18 Q. He's accused of willfully and knowingly hiding
19 his affiliations and collaborations and employment with
04:29PM 20 BJUT in order to get a NASA grant.

21 A. If you're reading from a document, I don't know
22 what document that is. Are you reading from the
23 indictment?

24 Q. I'm reading from my notes. It's a question.
25 You're the one who investigated him.

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1 A. That's correct.

2 Q. Did you investigate him for trying to trick
3 NASA?

4 A. I investigated him based on his association
5 with a foreign government talent program that is
6 sponsored and controlled by the Chinese government that
7 attempts to acquire science and technology from the
8 United States and transfer it back to China to benefit
9 their Chinese military and their economy.

04:30PM 10 Q. Yeah. Did you ever find any evidence of that?

11 A. Evidence of what?

12 Q. What you just said that you investigated him
13 for. You didn't present any of it here today or
14 yesterday or the day before, did you?

15 A. So when I opened the investigation, I opened it
16 up as an economic espionage investigation because the
17 only information I had that he was part of this foreign
18 talent program and knowing that the program is
19 attempting to acquire science and technology from the
04:31PM 20 United States, my investigation was to determine whether
21 this activity was occurring. So when I opened the case,
22 I did not know the activity that was occurring, if any.

23 (Defendant's Exhibit 22 was marked for
24 identification.)

25

CROSS-EXAMINATION - KUJTIM SADIKU

1 BY MR. LOMONACO:

2 Q. Okay. Well, let me turn your attention to
3 Exhibit 22.

4 Do you recognize this redacted version of a
5 report dated March 5th, 2018?

6 MR. LOMONACO: Keep going.

7 BY THE WITNESS:

8 A. Yes.

9 BY MR. LOMONACO:

04:31PM 10 Q. And who is Chelsea Dagger?

11 A. That's the code name assigned to this
12 investigation.

13 Q. It's a code name assigned to Anming Hu; right?

14 A. That's correct.

15 MR. LOMONACO: Okay. Let's go down to where it
16 starts -- okay. Right there (indicating).

17 BY MR. LOMONACO:

18 Q. Is this -- is this one of your reports?
19 Initial report?

04:32PM 20 A. That appears to be the opening document.

21 Q. So you -- it says you initiated this
22 investigation on Anming Hu based on his association with
23 China's Thousand Talents Program. That's not true, is
24 it? He didn't belong to the China One Thousand Talents
25 Program (sic)?

CROSS-EXAMINATION - KUJTIM SADIKU

1 A. At the time of this opening, I did not know.
2 But after I interviewed him in April, I showed him the
3 Thousand Talents web page printout and he told me he was
4 not. So when I opened this, I did not know whether he
5 was, and after I interviewed him, he told me he wasn't.
6 So I believed that he wasn't.

7 Q. But at the time --

8 MR. LOMONACO: Your Honor, I move to admit
9 Exhibit 22 into evidence.

04:33PM 10 MR. ARROWOOD: Objection, Your Honor.
11 Relevance.

12 THE COURT: What's the relevance of this
13 document?

14 MR. LOMONACO: Well, it's -- it's relevant to
15 demonstrate that the federal agents had false
16 information when they started this investigation.

17 MR. ARROWOOD: Your Honor, it's specific
18 evidence then of bias. He can question the witness.

19 THE COURT: I'll let you question, but for now,
04:33PM 20 I'm not going to introduce the document based on what
21 I've heard so far.

22 MR. LOMONACO: That's fine, Your Honor.

23 BY MR. LOMONACO:

24 Q. Now, you said you made this assessment
25 with -- well, let's go back up here.

CROSS-EXAMINATION - KUJTIM SADIKU

1 You also believed or said Professor Hu's role
2 as an expert evaluator for China's Ministry of Science
3 and Technology indicates a willingness to collaborate
4 with Chinese government entities.

5 He wasn't an expert evaluator for China's
6 Ministry of Science and Technology, was he?

7 A. So, this opening document, this opening of the
8 investigation was based on a lead that I had received on
9 FBI analysis that was conducted.

04:34PM 10 Q. I see. And you refer to that in the next
11 paragraph or sentence where it says, "FBI KX" -- that's
12 Knoxville; right?

13 A. That's correct.

14 Q. -- "made this assessment with medium confidence
15 based on multiple sources with varying degrees of
16 reliability."

17 A. Those are not my assessments.

18 Q. But that's -- that's your source of
19 information?

04:34PM 20 A. The analysis that was provided to me as a lead
21 to initiate the investigation.

22 Q. Okay. So starting with this investigation,
23 this was when you started the investigation, and then
24 you went and talked to Anming Hu with Special Agent
25 Slatton at his office. We've already established that.

CROSS-EXAMINATION - KUJTIM SADIKU

1 That was in April of this year; right?

2 A. 2018, yes.

3 Q. Yes. And we've talked about some of the
4 conversations you had with Professor Hu where he told
5 you he wasn't a member of the Thousand Talents Program,
6 and would you -- would you indicate or believe that he
7 was honest with you?

8 A. At the time, I had no reason to believe that he
9 was not honest with me.

04:35PM 10 Q. And isn't it a fact that lying to an FBI agent
11 is a criminal offense?

12 A. That is correct.

13 Q. And if he had lied to you, you would have
14 arrested him for the lies; correct?

15 MR. ARROWOOD: Objection, Your Honor.

16 BY MR. LOMONACO:

17 Q. If you know.

18 THE COURT: Let's go on.

19 MR. LOMONACO: All right.

04:36PM 20 BY MR. LOMONACO:

21 Q. And you had a conversation with him about a
22 seminar or symposium that he was going to go to;
23 correct?

24 A. That's correct.

25 Q. And you asked him to come and talk to you about

CROSS-EXAMINATION - KUJTIM SADIKU

1 that symposium before he left, come to your office and
2 talk to you about it.

3 A. Yes. We normally give briefings to travelers
4 who are heading overseas to areas that may be of
5 concern.

6 Q. And you asked him to go to the symposium.

7 A. I did not.

8 Q. You told him that when -- and when he came
9 back, you wanted him to come back to your office and
04:36PM 10 talk to you about it some more.

11 A. That's correct, I did. I asked him to.

12 Q. Did you ask him to be a spy for you?

13 A. I did not.

14 Q. At the time, he told you he had a couple
15 of NAS- -- he had a couple of NASA grants; that was part
16 of the conversation you had?

17 A. That's correct, he did.

18 Q. Did you -- were you concerned about that at the
19 time or did you have to do your research on NASA grants
04:37PM 20 before you became concerned?

21 A. I had to do research on NASA grants. I wasn't
22 familiar with NASA grants at the time.

23 Q. Okay. And so shortly thereafter, you got an
24 email from him saying he's changed his mind; he's too
25 busy; he's not going.

CROSS-EXAMINATION - KUJTIM SADIKU

1 A. That's correct.

2 Q. And did that make you upset?

3 A. No.

4 Q. Did that cause you to conduct a
5 year-and-nine-month inves- -- surveillance investigation
6 undercover to follow him around?

7 A. It had nothing to do with any investigative
8 activity that I took after that point.

04:37PM 9 Q. How many agents assisted you in following
10 Professor Hu around and his son around for the next
11 year-and-a-half?

12 A. We normally conduct surveillance on various
13 subjects, victims and other people of interest, and we
14 have surveillance teams designated to perform this
15 activity.

16 Q. Okay. My question was: How many agents were
17 on the team?

18 A. Our surveillance team does not have any agents
19 assigned.

04:38PM 20 Q. How many humans were on the team?

21 A. I don't know how many members make up a
22 surveillance team. It depends. It varies. I just
23 don't know.

24 Q. Did you keep a record of how much that cost
25 over the next year-and-a-half?

CROSS-EXAMINATION - KUJTIM SADIKU

1 A. I did not.

2 Q. Okay. So your surveillance began on or about
3 August 28th, 2018; does that sound about right?

4 A. I don't remember the date, but there would be a
5 document documenting the date that I requested
6 surveillance and it would be in the case file.

7 MR. LOMONACO: Exhibit 43.

8 (Defendant's Exhibit 43 was marked for
9 identification.)

04:39PM 10 BY MR. LOMONACO:

11 Q. Let me ask you if you can identify Exhibit 43.

12 MR. LOMONACO: Your Honor, I ask -- oh, there
13 it is -- that it be moved into --

14 BY MR. LOMONACO:

15 Q. Is this the document you're talking about?

16 A. I don't understand the question. I wasn't
17 talking about a document.

18 Q. You said there would be some sort of writing to
19 talk about the surveillance; right?

04:40PM 20 A. Yeah.

21 MR. ARROWOOD: Your Honor, if I may just object
22 to showing this document to the jury.

23 THE COURT: It's not being shown right now.

24 MR. ARROWOOD: Okay. Thank you.

25 THE COURT: It hasn't been admitted into

1 evidence yet.

2 So sometimes documents are used with the
3 witness only and are not admitted into evidence.

4 Sometimes the Court waits until it hears whether there
5 is objection.

6 A lot of the documents during this trial, the
7 Court knows beforehand that there are stipulations and
8 there is not objections and we've been letting you see
9 them. But some documents there is a question. So
04:41PM 10 that's why there might be questions before if and when
11 the jury sees the document.

12 BY MR. LOMONACO:

13 Q. Do you recognize the document?

14 A. Yes, this is an FD-1055. This is a
15 surveillance report that the bureau uses.

16 MR. LOMONACO: Is there going to be an
17 objection to moving this into --

18 MR. ARROWOOD: Yes, Your Honor, it's hearsay,
19 relevance. He can show it to the witness and ask the
04:41PM 20 witness questions, but it has nothing to do with the
21 facts of this particular case, Your Honor.

22 THE COURT: For this particular document,
23 that's probably a valid objection.

24 BY MR. LOMONACO:

25 Q. Well, this document has -- one, two, three,

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1 four, five, six -- seven people listed as Drafted By.

2 Do you see that?

3 A. Yes, I do.

4 Q. And are those some of the people that did the
5 surveillance?

6 A. Based on this document and the Drafted By
7 portion, anyone who participated in this activity would
8 be a coauthor and they would have to review the report
9 before it was submitted for approval. So based on this
04:42PM 10 document, I would say the names listed are those who
11 participated in this surveillance activity.

12 Q. And what was the worst evidence against Anming
13 Hu during this year-and-a-half investigation? Did you
14 find that he committed any crimes?

15 A. I don't understand the question.

16 Q. Did you find that he committed any economic
17 espionage?

18 A. During the investigation, I collect
19 observations and I present them to the U.S. Attorney's
04:42PM 20 Office, who makes a decision on whether to prosecute a
21 case on potential charges. I do not make that decision.

22 Q. You staked out his house; right? Right?

23 A. I don't understand the question. What do you
24 mean by "staked out"?

25 Q. You and agents sat in a car outside his house

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1 and waited for him to go to work, and you followed him
2 down Kingston pipe and you followed him down Northshore
3 and you followed him all the way downtown to his office
4 on a regular basis; right?

5 A. I did not, no.

6 Q. You or your agents.

7 A. FBI employees. None of those that I see on
8 this list are FBI agents. They're FBI employees.

9 Q. And these seven people here, they followed him
04:43PM 10 to work, to school, followed his son, took pictures of
11 his son, and all I'm asking is: Did you witness or did
12 these people witness any crimes during that year and
13 nine months?

14 MR. ARROWOOD: Objection, Your Honor. It calls
15 for a legal conclusion.

16 MR. LOMONACO: All right.

17 MR. ARROWOOD: It's entirely irrelevant.

18 MR. LOMONACO: I think I've made my point on
19 that, Your Honor. I'll move on.

04:43PM 20 THE COURT: Thank you. We'll go on.

21 BY MR. LOMONACO:

22 Q. In August of 2018, you had been communicating
23 with some of the administrators at UT, and they had been
24 giving you documents about Professor Hu; is that
25 correct?

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1 A. Did you say August 2018?

2 Q. Yes.

3 A. It sounds right.

4 Q. And August 28th, an administrator sent Mr. --
5 or Professor Hu's annual conflict of interest forms to
6 you; correct?

7 A. I don't know where that question is coming
8 from. Do you have a document to refer to?

9 Q. Well, did you get conflict of interest forms
04:45PM 10 from UT on Anming Hu?

11 A. I asked for conflict of interest forms from the
12 University of Tennessee because I developed information
13 that he was affiliated with the Beijing University of
14 Technology and I wanted to verify that, A, if it was
15 reported to the university per their policy and what
16 exactly was their policy for reporting these types of
17 affiliations.

18 Q. Okay. Good. Did you find out what the policy
19 was?

04:45PM 20 A. I found out they have one.

21 Q. You said you wanted to know what the policy
22 was. Did you find out what the policy was?

23 A. The policy from the University of Tennessee has
24 a disclosure policy, yes.

25 Q. Did you read it?

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1 A. No, I did not.

2 Q. A couple days after that you had your first
3 fraud awareness meeting; is that right?

4 A. I did not attend a fraud awareness meeting.

5 Q. You didn't go to it?

6 A. No, I did not.

7 Q. Do you know who did?

8 A. I do not.

9 Q. In September of 2018, you made contact with an
04:46PM 10 administrator at UT who gave you information about what
11 that person believed the NASA requirement required.

12 Correct me if I'm wrong, but I believe they told you
13 there were two types of entities that NASA would refuse
14 to cooperate with with their research and funding. One
15 entity was directly owned by the Chinese government or
16 an entity employed by the Chinese government. Do you
17 recall the administrator at UT telling you that was
18 their understanding or that was her understanding?

19 A. Is your question based on this report that is
04:47PM 20 in the screen in front of me?

21 Q. Yes.

22 A. I don't know if I was at that meeting.

23 Q. You don't know what?

24 A. I don't know if I attended this particular
25 meeting that you reference.

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1 MR. LOMONACO: Is his name on there?

2 BY THE WITNESS:

3 A. If I was in attendance, my name would be on the
4 report.

5 BY MR. LOMONACO:

6 Q. Okay. So you don't recognize this report?

7 A. Can you please scroll up?

8 MR. LOMONACO: Go up to the top.

9 THE WITNESS: No, no, no, no, no.

04:48PM 10 MR. LOMONACO: Go past that first document.

11 Right there (indicating).

12 BY MR. LOMONACO:

13 Q. It says, "Chelsea Dagger, Knoxville." Do you
14 see those numbers, Case ID? Does that Case ID 2595463
15 mean anything?

16 A. Yes.

17 Q. What is that?

18 A. QX2595463 was the case number assigned to
19 Anming Hu.

04:48PM 20 Q. There is a lot of things that are redacted on
here, but what are these other case numbers, 4048071?

22 MR. ARROWOOD: Objection, Your Honor.

23 Relevance.

24 MR. LOMONACO: Let me just go on.

25 Can you --

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1 THE COURT: So he's withdrawing that question.

2 MR. LOMONACO: I'm withdrawing, Your Honor.

3 Just go on.

4 BY MR. LOMONACO:

5 Q. Let's see if we can find any identification
6 marks for you.

7 MR. LOMONACO: Slow down.

8 BY MR. LOMONACO:

04:49PM 9 Q. Does it look familiar yet, or you still don't

10 know if you wrote it or not?

11 A. I do not know if I wrote it.

12 Q. All right. The case agent name is covered up.
13 So we don't know who the case agent name is; right?

14 A. Yes, that portion is redacted.

15 MR. LOMONACO: Okay. Keep going a little bit
16 more.

17 Okay. We'll just -- we'll just go on to the
18 next document.

04:49PM 19 Can we mark that for identification, Your

20 Honor, Exhibit 22?

21 THE COURT: Yes, it's -- I think we've -- yes,
22 it's marked for identification purposes.

23 MR. LOMONACO: Thank you, Your Honor.

24 BY MR. LOMONACO:

25 Q. So let's just assume that we have two types of

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1 entities that would violate the NASA restriction.

2 MR. ARROWOOD: Your Honor, objection. It
3 assumes facts not in evidence. It is a misstatement of
4 the law, or -- I don't know where this has been coming
5 from, Your Honor.

6 THE COURT: Do you want to start over,
7 Mr. Lomonaco, with that anticipatory objection?

8 MR. LOMONACO: Yes, Your Honor.

9 THE COURT: Thank you.

04:50PM 10 BY MR. LOMONACO:

11 Q. Do you have any evidence that Anming Hu was
12 employed by the Chinese government?

13 A. How do you define "employed"?

14 Q. He gets a paycheck from the Chinese government.

15 A. I have not been able to verify that he received
16 any payment from the government of China or any entity
17 in China.

18 Q. Okay. Have you been able to verify any
19 employment of Professor Hu from China?

04:51PM 20 A. The laws of the FBI do not extend beyond the
21 United States borders. So there is no way, even if I
22 attempted to verify employment with China, they -- even
23 if I served -- or they were served with legal process,
24 they would not respond, and they -- so there is no way I
25 could verify that.

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1 Q. Have you been able to verify any information
2 about the universities over there in China? For
3 instance, whether they're incorporated?

4 A. I'm not familiar with the laws of China.

5 Q. Has anybody in this investigation or
6 prosecution been able to verify that?

7 A. Not to my knowledge, no.

8 Q. Are you aware on November 30th, 2018, when
9 Professor Hu was going to a symposium in Japan that at
04:52PM 10 the airport they took his computer and his telephone;
11 did you know that?

12 A. Yes, I'm aware that he was stopped at the
13 border attempting to exit the United States en route to,
14 I believe, Japan.

15 Q. And was the reason he was stopped is because
16 you put his name on some sort of list?

17 A. I provided information to Department of
18 Homeland Security, and they made the decision on whether
19 to pull him aside and question him based on the
04:52PM 20 information I provided.

21 Q. I'm not even going to ask you what the
22 information was, but isn't it a fact that he got his
23 telephone and his computer taken and there was no
24 sensitive information, no classified information, or
25 anything he got accused of taking out of the country,

1 was there?

2 A. So during this border stop, he was interviewed
3 by customs, and they -- there is a report documenting
4 this interaction, and I have read the report, and it's
5 been years since I've read it, but, to the best of my
6 recollection, the border stop occurred -- he was
7 interviewed by customs and a mention of the University
8 of Tennessee nano- -- some sort of science, and at that
9 point, they reviewed electronics. And at that point,
04:53PM 10 they made a determination to image the electronics. And
11 I believe they were -- they were kept because sometimes
12 an image -- to image an electronic device takes longer
13 than his flight. So I think they -- there was a
14 decision made that he would proceed on to Japan without
15 the electronics. That is my understanding.

16 Q. And he got the computer and his telephone back
17 when he came back, and do you know where he had to go to
18 get it or who delivered it to him?

19 A. I do not know.

04:54PM 20 Q. It was sent to Knoxville; right?

21 A. I don't know.

22 Q. In December -- excuse me -- July 18th, 2019,
23 you prepared to have a meeting with -- you and Laura
24 Slatton had a meeting with several of the administrators
25 at UT; correct?

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1 A. That is correct.

2 Q. Was that your idea?

3 A. I don't remember if it was my idea, but if it
4 wasn't, I'm sure I had a decision in the meeting, yes.

5 Q. You are sure you had a what?

6 A. A decision in calling the meeting or requesting
7 the meeting or being requested to meet.

8 Q. And you put together several PowerPoints,
9 18-page PowerPoint presentations; correct?

04:55PM 10 A. I use PowerPoints as my notes. In an effort to
11 share the information that I had developed, I was trying
12 to be as transparent as I could with my findings to
13 provide it to the university and they reciprocated. And
14 because I had questions and there was things that I
15 developed that I just didn't have knowledge or expertise
16 in but they did. So during the course of this
17 investigation, we met at whatever designated frequency
18 to update, share and ask questions on a regular basis.

19 Q. Did you tell any of that to the administrators
04:56PM 20 you were meeting?

21 A. Tell them what?

22 Q. That you couldn't verify the information you
23 put on the PowerPoints? That, as you said earlier,
24 these were summary translations, not accurate in total?

25 A. Yes, they were aware. I told them that the

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1 limitations to a summary translation, whether it's
2 obtained via Google Translate or even an FBI summary
3 translation is not an accurate reflection of the
4 document or text in its entirety.

5 Q. So let me show you -- I think you've already
6 introduced this as Government 10-O. Is this the
7 July 18th -- first page of your PowerPoint presentation?

8 A. Yes.

9 Q. Let's go down here. Did you make any
04:57PM 10 statements here that this is just summary translations
11 or that you can't verify all this information here? Is
12 there anything here that advises them ahead of time that
13 what they're about to hear from you in these PowerPoint
14 presentations is not accurate in a lot of respects?

15 A. Well, this document, the PowerPoint that I
16 created, I used it as an outline to -- and it wasn't a
17 presentation. It was more of a discussion, a back and
18 forth between myself and the university.

19 Q. Isn't all the explanations you're giving here
04:58PM 20 right now, Agent Sadiku, just some way of covering up
21 the fact that you put a lot of lies into this thing?

22 MR. ARROWOOD: Objection, Your Honor.

23 Argumentative.

24 THE COURT: Well, it's cross-examination.
25 We'll let the witness answer to the extent he can. So

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1 I'll overrule the objection.

2 BY THE WITNESS:

3 A. Can you repeat the question?

4 BY MR. LOMONACO:

5 Q. You stated on direct examination that the
6 purpose was to share information and gain information.

7 It was a summary translation, understanding why you
8 drafted it, that it was -- you couldn't verify it, so
9 you put it in a PowerPoint. Isn't all of those
04:58PM 10 explanations just trying to cover up the fact that you
11 lied to the -- in many respects to the UT
12 administrators?

13 A. The document that I created as a PowerPoint to
14 be used as an outline contained summary translations and
15 other documents that -- I mean, by definition of a
16 translation, whether it's Google or a summary, it's
17 information that I couldn't verify. So, yes, per that
18 definition, they would be inaccurate.

19 Q. And yes to my question two?

04:59PM 20 A. What was your question two?

21 Q. You lied to them.

22 A. I did not lie to UT.

23 Q. All right. Let's look at the first accusation
24 or statement.

25 MR. LOMONACO: Could we admit our Exhibit 24-A,

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1 Your Honor, please, that he's identified?

2 THE COURT: Is that the same as Government's
3 11-O? I think it is.

4 MR. PARSONS: There is a memo that the
5 government has asked that we not show, but we would like
6 to show the PowerPoint without that top portion. So
7 we're not going to admit this.

8 MR. LOMONACO: So we're not going to admit
9 this.

04:59PM 10 MR. PARSONS: Not this one, but we'd like to
11 show it to the jury.

12 MR. LOMONACO: Okay. We'll just start from the
13 part that doesn't have the memo and -- and --

14 THE COURT: Is it the same as 11- -- as 10-O?

15 MR. PARSONS: Yes, sir.

16 MR. LOMONACO: We can do that one, Your Honor.
17 It's hard to page down when the government's doing it
18 for me.

19 THE COURT: Well, if it's the same, then
05:00PM 20 we'll -- let's start with the page that the government
21 is on, I guess.

22 MR. LOMONACO: Okay, Your Honor.

23 THE COURT: Let me think about that. Let me
24 see counsel here at the side for a moment.

25 (Whereupon a sidebar was had outside the

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1 hearing of the jury as follows:)

2 THE COURT: I'm probably just going to ask
3 where we are in terms of -- it seems like you've got
4 more cross, obviously.

5 MR. LOMONACO: Yes.

6 THE COURT: Do you have any idea? I don't
7 think you're going to be finishing in the next
8 15 minutes.

9 MR. LOMONACO: No, probably an hour.

05:00PM 10 THE COURT: You will have some redirect?

11 MR. ARROWOOD: Yes, Your Honor.

12 THE COURT: Okay. Is this the last witness?

13 MR. ARROWOOD: It's the government's last
14 witness for its case-in-chief.

15 THE COURT: So will you be prepared with
16 witnesses tomorrow?

17 MR. LOMONACO: Yes, Your Honor. We've got one
18 lined up and we're going to get another one lined up. I
19 think we'll get enough to fill the day.

05:01PM 20 THE COURT: Okay. Then let's just stop right
21 now and give you time to make sure of that and we'll
22 come back and probably do this witness kind of through
23 the morning break and then we'll rest and then go from
24 there.

25 MR. MC KENZIE: Your Honor -- Phil, would it be

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1 easier for us to email you the admitted government
2 versions of those PowerPoints so that you don't have to
3 worry about removing the memos and that way you control
4 it on your screen? Would that make it easier for
5 everybody?

6 MR. PARSONS: Yes. Thank you.

7 THE COURT: Why don't we do that?

8 MR. MC KENZIE: All right. We'll take care of
9 it.

05:01PM 10 THE COURT: That might make it go quicker in
11 the morning.

12 (Whereupon the following was had in open court
13 within the hearing of the jury:)

14 THE COURT: All right. Thank you. In
15 discussing with counsel, this is probably a good
16 stopping point for a couple of reasons. One, it's the
17 end of the day and we usually stop between 5:00 and
18 5:15, and, two, I think counsel can get together with
19 the documents that are being shown now and have the time
05:02PM 20 this evening to prepare and make things go smoother with
21 respect to the use of these particular documents
22 tomorrow. So we will adjourn for the day.

23 I'll ask the jury to be back as usual around
24 8:45 in the morning so we can start back with the trial
25 testimony tomorrow, Friday, June 11 at 9:00 a.m.

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1 Again, remind the jury, keep an open mind as
2 you continue to hear all the evidence in this case. Do
3 not engage in any outside research or reading in any
4 fashion about the case, and just put things aside and
5 continue not to discuss the case itself with your fellow
6 jurors or with anyone else.

7 So, with that being said, we'll see all of you
8 back here tomorrow morning. Thank you.

9 (Jurors excused from the courtroom.)

05:03PM 10 THE COURT: Okay. Sit down for just a moment.
11 So the plan, as I understand it from our sidebar, with
12 respect to this particular cross-examination, you know,
13 the Court had ruled earlier this morning that the
14 defendant could introduce certain exhibits, but the
15 government went ahead and introduced those exhibits as
16 Government's 10-O, 10-P, and 10-Q.

17 MR. MC KENZIE: Your Honor, do you want the
18 witness to hear this? He's still on the stand. I
19 didn't know if you were going to say anything that --

05:03PM 20 THE COURT: So essentially the government is
21 going to email those documents to the
22 defendant -- defendant's counsel so the defendant can
23 utilize those government's exhibits tomorrow for this
24 portion of the cross-examination. Essentially the same
25 documents, but since they're already admitted as

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1 government's exhibits, I think, Mr. Lomonaco, your plan
2 or agreement -- I mean, subject to looking them
3 over -- is just to use the admitted documents tomorrow
4 morning.

5 MR. LOMONACO: Yes.

6 THE COURT: All right. We'll see everybody
7 back here tomorrow morning. Thank you.

8 MR. ARROWOOD: Thank you.

05:04PM 9 THE COURTROOM DEPUTY: All rise. This

10 honorable court stands in recess.

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C-E-R-T-I-F-I-C-A-T-E

1 STATE OF TENNESSEE

2 COUNTY OF KNOX

3
4 I, Teresa S. Grandchamp, RMR, CRR, do hereby
5 certify that I reported in machine shorthand the above
6 proceedings, that the said witness(es) was/were duly
7 sworn; that the foregoing pages were transcribed under
8 my personal supervision and constitute a true and
9 accurate record of the proceedings.

10 I further certify that I am not an attorney or
11 counsel of any of the parties, nor an employee or
12 relative of any attorney or counsel connected with the
13 action, nor financially interested in the action.

14 Transcript completed and signed on Wednesday,
15 June 30, 2021.



21
22 TERESA S. GRANDCHAMP, RMR, CRR
Official Court Reporter
23
24
25